

1                                   IN THE UNITED STATES DISTRICT COURT  
2                                   FOR THE DISTRICT OF HAWAII  
3  
4           UNITED STATES OF AMERICA,     )  
5                                   Plaintiff,     )  
6                                   vs.     )  
7           MICHAEL J. MISKE, JR.,     )  
8                                   Defendant.     )  
                                  \_\_\_\_\_ )

9  
10                               TRANSCRIPT OF JURY TRIAL (DAY 49)  
11                               BEFORE THE HONORABLE DERRICK K. WATSON,  
12                               CHIEF UNITED STATES DISTRICT COURT JUDGE

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United States District Court  
300 Ala Moana Boulevard  
Honolulu, Hawaii 96850

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## I N D E X

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JACOB SMITH (CONTINUED TESTIMONY)

RESUMED DIRECT EXAMINATION BY MR. NAMMAR

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1 April 12, 2024 8:35 a.m.

08:35AM 2 THE CLERK: Criminal Number 19-00099-DKW-KJM, United

08:35AM 3 States of America versus Michael J. Miske, Jr.

08:35AM 4 This case has been called for jury trial, day 49.

08:35AM 5 Counsel please make your appearances for the record.

08:35AM 6 MR. INCIONG: Good morning, Your Honor. Mark Inciong,

08:35AM 7 Michael Nammar, KeAupuni Akina and Aislinn Affinito for the

08:35AM 8 United States. Also present with us is Special Agent Palmer

08:35AM 9 and Kari Sherman. Good morning.

08:35AM 10 THE COURT: Good morning.

08:35AM 11 MR. KENNEDY: Good morning, Your Honor. Michael

08:35AM 12 Kennedy with Lynn Panagakos, Michael Miske, Ashley King and

08:35AM 13 Josh Barry. Good morning to you all. Good morning to all of

08:35AM 14 you.

08:35AM 15 THE COURT: Good morning, good morning. You may be

08:35AM 16 seated. Good morning to our jurors.

08:35AM 17 Mr. Smith, good morning to you, sir.

08:35AM 18 THE WITNESS: Good morning.

08:35AM 19 THE COURT: The place we were at when we adjourned

08:35AM 20 yesterday afternoon was Mr. Nammar was in his direct

08:35AM 21 examination of the witness, Mr. Smith, and you may continue

08:35AM 22 with that when you're ready.

08:35AM 23 MR. NAMMAR: Thank you. Do you want to remind the

08:35AM 24 witness of the oath?

08:35AM 25 THE COURT: Sure, thank you.

08:36AM 1 Mr. Smith, although we will not take the time to  
08:36AM 2 reswear you, I will remind you that you remain subject to the  
08:36AM 3 same oath that you took at the inception of your testimony. Do  
08:36AM 4 you understand that?

08:36AM 5 THE WITNESS: Yes, Your Honor.

08:36AM 6 THE COURT: All right. Go ahead.

08:36AM 7 Thank you, Mr. Nammar.

08:36AM 8 JACOB SMITH,

08:36AM 9 (Having previously been sworn, resumed the stand )

08:36AM 10 RESUMED DIRECT EXAMINATION

08:36AM 11 BY MR. NAMMAR:

08:36AM 12 Q Good morning, Mr. Smith.

08:36AM 13 A Good morning, Mr. Nammar.

08:36AM 14 Q So we left off in looking at some messages and phones in  
08:36AM 15 2016. Fast forward now to 2017. I believe you testified that  
08:36AM 16 Lance was in custody at that point?

08:36AM 17 A Yes.

08:36AM 18 Q And then Dae Han was also in custody in that point?

08:36AM 19 A Yes.

08:36AM 20 Q Did you continue to hang out with John Stancil quite a  
08:36AM 21 bit?

08:36AM 22 A Yes.

08:36AM 23 Q Were you also remaining to be on call for Miske to commit  
08:36AM 24 assaults?

08:36AM 25 A Yes.

08:36AM 1 Q And you talked about yesterday a practice with a burner  
08:36AM 2 phone. In 2017, did you continue to use burner phones?

08:36AM 3 A Yes.

08:36AM 4 Q And did you use those burner phones to contact, stay in  
08:37AM 5 contact with Mr. Miske?

08:37AM 6 A Yes.

08:37AM 7 Q Do you recall an occasion in or around in 2017 or around  
08:37AM 8 2017 when you were called to the Kama'aina Termite office to  
08:37AM 9 assault an employee?

08:37AM 10 A Yes.

08:37AM 11 Q Can you describe what you recall about the way the  
08:37AM 12 employee looked?

08:37AM 13 A He was a bigger Hawaiian male. He was wearing a Kama'aina  
08:37AM 14 shirt. He was like my height, stocky.

08:37AM 15 Q Where did the assault take place?

08:37AM 16 A In Mike's office.

08:37AM 17 Q And how did you get contacted by Mr. Miske to come to the  
08:37AM 18 office?

08:37AM 19 A He texted me to come to the shop.

08:37AM 20 Q And did he do that through a burner phone?

08:37AM 21 A I believe so.

08:37AM 22 Q What was the message more or less that you got from  
08:37AM 23 Mr. Miske regarding the coming to the shop?

08:38AM 24 A That I was going to handle something.

08:38AM 25 Q What did that mean to you "handle something"?

08:38AM 1 A That I was going to assault someone.

08:38AM 2 Q And when you went to the shop, did you learn why you were  
08:38AM 3 going to assault that person?

08:38AM 4 A I learned that he -- they were working on a house and  
08:38AM 5 there was some missing items from the house that the worker  
08:38AM 6 took.

08:38AM 7 Q Some things had been stolen by the worker in a house?

08:38AM 8 A Yes.

08:38AM 9 Q Who told you that?

08:38AM 10 A Mike.

08:38AM 11 Q Did you meet with him briefly outside his office before  
08:38AM 12 the assault began?

08:38AM 13 A Yes.

08:38AM 14 Q Is that where he told you about the theft?

08:38AM 15 A Yes.

08:38AM 16 Q Did he also give you a baton?

08:38AM 17 A Yes.

08:38AM 18 Q Can you describe for the jury what a baton looks like or  
08:38AM 19 what the baton looks like?

08:39AM 20 A It was about 6 inches. It was collapsable.

08:39AM 21 Q And was it made out of metal?

08:39AM 22 A Yes.

08:39AM 23 MR. NAMMAR: Your Honor, can we show the witness only  
08:39AM 24 1-602 from the original list?

08:39AM 25 THE COURT: Go ahead.

08:39AM 1 BY MR. NAMMAR:

08:39AM 2 Q Mr. Smith, do you recognize what is shown in this photo?

08:39AM 3 A Yes.

08:39AM 4 Q What is it?

08:39AM 5 A It's the baton.

08:39AM 6 Q This is exactly how the baton looks that you were given?

08:39AM 7 A They are pretty identical, yes.

08:39AM 8 MR. NAMMAR: Your Honor, I move to admit 1-602.

08:39AM 9 THE COURT: Any objection?

08:39AM 10 MR. KENNEDY: No objection.

08:39AM 11 THE COURT: 1-602 then is admitted without objection.

08:40AM 12 You may publish it for the jury.

08:40AM 13 MR. NAMMAR: Thank you.

08:40AM 14 (Exhibit 1-602 was received in evidence.)

08:40AM 15 BY MR. NAMMAR:

08:40AM 16 Q You said -- 1-602 is up. Mr. Smith, you said you were  
08:40AM 17 given a baton very similar to this by Mr. Miske outside the  
08:40AM 18 office?

08:40AM 19 A Yes.

08:40AM 20 Q And you -- I think you earlier said it's retractable. How  
08:40AM 21 does it work?

08:40AM 22 A You whip it out. You whack it down and it comes out.

08:40AM 23 Q Okay. And it extends?

08:40AM 24 A Yes.

08:40AM 25 Q So after getting the baton, did you go back into the

08:40AM 1 office with Mr. Miske?

08:40AM 2 A Yes.

08:40AM 3 Q And what took place in the office?

08:40AM 4 A Mike was yelling at him about something. I ended up

08:40AM 5 hitting him. He told him to take your shirt off and I started

08:40AM 6 batoning him. I started hitting him with the baton.

08:40AM 7 Q Did you hit him hard with the baton?

08:40AM 8 A Yes.

08:40AM 9 Q Do you recall what Mr. Miske was yelling at the employee

08:41AM 10 about?

08:41AM 11 A He was -- I think he was yelling about the items he stole

08:41AM 12 from the house, and he was just telling him to take the company

08:41AM 13 shirt off.

08:41AM 14 Q And then that's when you hit him with the baton?

08:41AM 15 A Yes.

08:41AM 16 Q Where did you hit this employee?

08:41AM 17 A In his hands and his head.

08:41AM 18 Q How many times did you hit him with the baton?

08:41AM 19 A About six times.

08:41AM 20 Q What was done with the employee's shirt, if you recall?

08:41AM 21 A I don't remember. He just took it off. He gave it to

08:41AM 22 Mike.

08:41AM 23 Q Okay. Why did you stop?

08:41AM 24 A Mike told me to stop. It was enough.

08:41AM 25 Q And then what happened with the employee, did he leave?



08:41AM 1 A I'm not sure. I ended up leaving.

08:41AM 2 Q You ended up leaving?

08:41AM 3 A Yes.

08:41AM 4 Q When you were hitting him, the employee, were you face to  
08:42AM 5 face with him, behind him? Where were you positioned?

08:42AM 6 A I was -- Mike was on his side of the desk. The other guy  
08:42AM 7 was on the opposite side of a desk, and I was kind of like  
08:42AM 8 right next to him.

08:42AM 9 Q Okay.

08:42AM 10 MR. NAMMAR: Your Honor, can we publish 1-779 from the  
08:42AM 11 original list?

08:42AM 12 THE COURT: Go ahead.

08:42AM 13 BY MR. NAMMAR:

08:42AM 14 Q Mr. Smith, did we talk about this photo yesterday?

08:42AM 15 A Yes.

08:42AM 16 Q What -- what's in this photo?

08:42AM 17 A There's the -- the writing board, the desk. This is  
08:42AM 18 Mike's office.

08:42AM 19 Q Okay. Is this where the -- does this depict the area  
08:42AM 20 where the assault of the employee took place?

08:42AM 21 A Yes.

08:42AM 22 Q Where were you, where was Mr. Miske, where was the  
08:42AM 23 employee during the assault?

08:42AM 24 A Mike was sitting in the chair behind the desk. The  
08:42AM 25 employee was standing in front of the desk where the black

08:43AM 1 chair is, and I was like right next to him where the empty spot

08:43AM 2 is.

08:43AM 3 Q So the employee was in the chair behind -- or, excuse me,

08:43AM 4 the -- Mr. Miske was in the chair behind the desk?

08:43AM 5 A Yes.

08:43AM 6 Q And the employee, can you mark where he was? He's

08:43AM 7 standing up though?

08:43AM 8 A He's standing up.

08:43AM 9 MR. NAMMAR: Okay. So for the record, next to the

08:43AM 10 refrigerator on the left-hand side.

08:43AM 11 BY MR. NAMMAR:

08:43AM 12 Q And where were you?

08:43AM 13 A I was right here.

08:43AM 14 MR. NAMMAR: For the record, just to the right of

08:43AM 15 that.

08:43AM 16 BY MR. NAMMAR:

08:43AM 17 Q Do you recall whether you got paid after this assault?

08:43AM 18 A I didn't get paid.

08:43AM 19 MR. NAMMAR: We can take that down.

08:43AM 20 BY MR. NAMMAR:

08:44AM 21 Q Also directing your attention now to February 2017. Were

08:44AM 22 you also summonsed again to the office to assault someone by

08:44AM 23 Mr. Miske?

08:44AM 24 A Yes.

08:44AM 25 Q Did you later learn that that individual was the owner of

08:44AM 1 a nightclub?

08:44AM 2 A Yes.

08:44AM 3 Q How did you know to get to the office to do that?

08:44AM 4 A Because Mike told me to come to the office.

08:44AM 5 Q Contacted you on your cell phone?

08:44AM 6 A Yes.

08:44AM 7 Q And what do you recall happening when you got to the  
08:44AM 8 office?

08:44AM 9 A Jason was standing inside. He ended up lifting the garage  
08:44AM 10 for me to come in. They closed the garage and...

08:44AM 11 Q Let me stop you there. Who's Jason?

08:44AM 12 A Jason was the manager at the M.

08:44AM 13 Q The one that you told us yesterday you did assaults for at  
08:44AM 14 the M?

08:44AM 15 A Yes.

08:44AM 16 Q And when you say he opened the garage, was it closed when  
08:45AM 17 you came?

08:45AM 18 A Yes.

08:45AM 19 Q And can you -- when -- when you're talking about garage,  
08:45AM 20 what do you mean?

08:45AM 21 A It was the garage door to Kama'aina Pest Control.

08:45AM 22 MR. NAMMAR: Your Honor, can we publish 1-776 at this  
08:45AM 23 time from the original list?

08:45AM 24 THE COURT: Go ahead.

08:45AM 25 BY MR. NAMMAR:

08:45AM 1 Q Mr. Smith, do you recognize what -- what's shown here this  
08:45AM 2 building?  
08:45AM 3 A Yes.  
08:45AM 4 Q And what is it?  
08:45AM 5 A It was Kama'aina Pest.  
08:45AM 6 Q Do you see the garage door that you were just testifying  
08:45AM 7 about?  
08:45AM 8 A Yes.  
08:45AM 9 Q Can you circle it? So it's like a roll-up door?  
08:45AM 10 A Yes.  
08:45AM 11 Q And after you came in, the door was closed? The garage  
08:45AM 12 door was -- by Jason he shut it?  
08:45AM 13 A Yes.  
08:45AM 14 Q And did you briefly meet with Mr. Miske outside of his  
08:45AM 15 office before the assault began?  
08:46AM 16 A Yes.  
08:46AM 17 Q Tell us what happened during that meeting.  
08:46AM 18 A He came outside. He told me that when he scratches his  
08:46AM 19 head that was the signal to go.  
08:46AM 20 Q To do what?  
08:46AM 21 A To assault the owner of Ginza that was sitting in there.  
08:46AM 22 THE COURT REPORTER: I'm sorry. "To assault the"?  
08:46AM 23 THE WITNESS: The owner of Ginza, the nightclub.  
08:46AM 24 BY MR. NAMMAR:  
08:46AM 25 Q Had he told you in the past -- he had told you in the past

08:46AM 1 about signals like that when to act?

08:46AM 2 A Yes.

08:46AM 3 Q Did he tell you at that time that the owner, the person in  
08:46AM 4 the office was the owner of Ginza?

08:46AM 5 A No.

08:46AM 6 Q Did you find that out later from Mr. Miske?

08:46AM 7 A I found it out later through other people around us.

08:46AM 8 Q Who did you find it out from?

08:46AM 9 A Through Johnnie and Mills.

08:47AM 10 Q Johnnie and Mills?

08:47AM 11 A Yes.

08:47AM 12 Q So do you go back -- at this point, do you go into the  
08:47AM 13 office with Mr. Miske?

08:47AM 14 A Yes.

08:47AM 15 Q And who -- who else is in the office at this time?

08:47AM 16 A The owner of the other club.

08:47AM 17 Q Do you recall is that it?

08:47AM 18 A Yes.

08:47AM 19 Q Do you recall whether Mr. Miske's office door was then  
08:47AM 20 shut?

08:47AM 21 A I don't know if it was shut or not because nobody else was  
08:47AM 22 in the shop. The shop was closed.

08:47AM 23 Q Okay. And when you first get into the office and the  
08:47AM 24 owner of Ginza is in there, Mr. Miske is in there and you're in  
08:47AM 25 there, what's taking place?

08:47AM 1 A They are just talking regularly.

08:47AM 2 Q In a friendly manner?

08:47AM 3 A Yes.

08:47AM 4 Q Okay. And where do you position yourself?

08:47AM 5 A I sit in the back of the office on a couch.

08:47AM 6 Q And where is the owner of Ginza?

08:47AM 7 A He's sitting right across from Mike at the desk.

08:48AM 8 Q And then what happens?

08:48AM 9 A I see him scratch his head. I come up behind him. I kick

08:48AM 10 him in the face and begin punching him.

08:48AM 11 Q How long does that go on for?

08:48AM 12 A Five seconds maybe.

08:48AM 13 Q How many times do you think you hit him in that five

08:48AM 14 seconds?

08:48AM 15 A Maybe five or six more times after I kicked him.

08:48AM 16 Q Where did you initially kick him?

08:48AM 17 A In the face.

08:48AM 18 Q What was -- what -- the owner Ginza, how was he positioned

08:48AM 19 when you started kicking him and punching him?

08:48AM 20 A I kicked him and he was falling out of the chair, and he

08:48AM 21 kind of curled up and I just kept hitting him.

08:48AM 22 Q At some point, did you stop?

08:48AM 23 A Yes.

08:48AM 24 Q Why did you stop?

08:48AM 25 A Because Mike told me it was enough.

08:48AM 1 Q Was Mr. Miske saying anything at that point to the owner

08:49AM 2 of Ginza?

08:49AM 3 A He was yelling at him after and told him that Jason was

08:49AM 4 like family and that he needed to return that Rolex.

08:49AM 5 Q He was talking about a Rolex?

08:49AM 6 A Yes.

08:49AM 7 Q A watch?

08:49AM 8 A Yes.

08:49AM 9 Q Did you know what he was talking about at that time?

08:49AM 10 A No.

08:49AM 11 Q How was it -- well, do you end up leaving or who leaves

08:49AM 12 first? What do you recall?

08:49AM 13 A I ended up leaving. I walked out of the office first. I

08:49AM 14 got paid and I left.

08:49AM 15 Q How much did you get paid?

08:49AM 16 A A thousand dollars.

08:49AM 17 Q Who paid you?

08:49AM 18 A Mike.

08:49AM 19 Q Had you ever seen the person that you assaulted before in

08:49AM 20 your life?

08:49AM 21 A No.

08:49AM 22 Q And we talked about some other assaults yesterday. Had

08:49AM 23 you ever seen the person named Kawika before in your life at

08:50AM 24 Cutter Chevy?

08:50AM 25 A No.

08:50AM 1 Q And the other used car dealer that you said was by the  
08:50AM 2 Eagle Cafe off Nimitz, had you ever seen that person in your  
08:50AM 3 life?

08:50AM 4 A No.

08:50AM 5 Q When you left Miske's office, did you see anybody within  
08:50AM 6 the garage bay area of the shop?

08:50AM 7 A What was the question?

08:50AM 8 Q When you left Miske's office after the assault of the  
08:50AM 9 owner, did you see anybody still within the shop in the garage  
08:50AM 10 area?

08:50AM 11 A I seen Jason and Mike still in the shop. The guy's  
08:50AM 12 girlfriend was parked outside.

08:50AM 13 Q Whose girlfriend was parked outside?

08:50AM 14 A The owner of the club.

08:50AM 15 Q How did you know that?

08:50AM 16 A Because they told me that was her sitting in the truck  
08:50AM 17 outside.

08:50AM 18 Q Okay.

08:50AM 19 MR. NAMMAR: Your Honor, can we publish 1-779 again?

08:51AM 20 THE COURT: You may.

08:51AM 21 MR. NAMMAR: My apologies. Can we publish 1-778  
08:51AM 22 first?

08:51AM 23 THE COURT: Go ahead.

08:51AM 24 MR. NAMMAR: Thank you.

08:51AM 25 BY MR. NAMMAR:



08:51AM 1 Q Do you recognize this photo, Mr. Smith?

08:51AM 2 A Yes.

08:51AM 3 Q What is -- what is shown here?

08:51AM 4 A This is the back of Mike's office.

08:51AM 5 Q And when you say at -- at the beginning of this assault,

08:51AM 6 you were seated at the couches. Do you see those in this

08:51AM 7 picture?

08:51AM 8 A Yes.

08:51AM 9 Q Which -- where were you seated?

08:51AM 10 A I was seated back here.

08:51AM 11 Q Okay. So for the record, you're pointing to where the

08:51AM 12 window is, correct?

08:51AM 13 A Yes.

08:51AM 14 Q And then where is -- where is Mr. Miske?

08:52AM 15 A He's seated in front of the desk.

08:52AM 16 Q Okay. Is it right in this bottom right-hand corner here?

08:52AM 17 A Yes.

08:52AM 18 Q And where is the owner of Ginza?

08:52AM 19 A He was seated on the chair on the other side.

08:52AM 20 MR. NAMMAR: If we can now publish 1-779.

08:52AM 21 BY MR. NAMMAR:

08:52AM 22 Q Where was the owner of Ginza in 1-779? Where was he

08:52AM 23 seated?

08:52AM 24 A He was seated on this chair in the front of the deck but

08:52AM 25 it was a little more to the right.

08:52AM 1 Q Okay. Can you circle the chair he was seated on a little  
08:52AM 2 bit more to the right of that; is that correct?

08:52AM 3 A Yeah, I was a little bit over this way.

08:52AM 4 Q Okay. And so when the assault begins, does the owner of  
08:52AM 5 Ginza see it coming or is his back to you?

08:53AM 6 A His back is to me. He doesn't see it coming.

08:53AM 7 Q And that's when you first kicked him?

08:53AM 8 A Yes.

08:53AM 9 MR. NAMMAR: Your Honor, can we publish at this time  
08:53AM 10 6-52 from the original list?

08:53AM 11 THE COURT: Go ahead.

08:53AM 12 MR. NAMMAR: Thank you.

08:53AM 13 We could just zoom in a little bit. Thank you.

08:53AM 14 BY MR. NAMMAR:

08:53AM 15 Q Mr. Smith, do you recognize this exhibit?

08:53AM 16 A Yes.

08:53AM 17 Q Had you seen it before?

08:53AM 18 A Yes.

08:53AM 19 Q Where did you first see it, if you recall?

08:53AM 20 A I don't -- I don't recall exactly but I know Mike or Jason  
08:53AM 21 showed me the picture.

08:53AM 22 Q And what did Mike or Jason say about it?

08:53AM 23 A They said this was somebody else posting this and that  
08:54AM 24 they were talking about the new club Encore that just opened  
08:54AM 25 up.

08:54AM 1 Q What was Encore?

08:54AM 2 A That was Mike and Jay's other club after the M shut down.

08:54AM 3 Q Did they seem happy about this post?

08:54AM 4 A No.

08:54AM 5 Q Did Mike separately talk to you about how Encore was doing

08:54AM 6 as a business?

08:54AM 7 A They just told me that Encore wasn't doing too good.

08:54AM 8 Q And did he ask you to do anything related to that?

08:54AM 9 A They had me going tear gas the other clubs.

08:54AM 10 Q Who asked you to do that?

08:54AM 11 A Mike asked us to do it.

08:54AM 12 Q What was -- did Mr. Miske say what the purpose of that

08:54AM 13 was?

08:54AM 14 A Because those clubs were happening at that time, and if

08:55AM 15 those clubs got tear gassed, people wouldn't want to be at

08:55AM 16 those clubs.

08:55AM 17 Q Did Mr. Miske tell you where you could obtain the tear gas

08:55AM 18 from?

08:55AM 19 A I -- I ended up getting the tear gas from Johnnie.

08:55AM 20 Q Johnnie Stancil?

08:55AM 21 A Yes.

08:55AM 22 Q Did you do this on multiple nights?

08:55AM 23 A We did it one night at The District and one night at

08:55AM 24 Ginza.

08:55AM 25 Q What was your role each night?

08:55AM 1 A I just drove.

08:55AM 2 Q You were the driver?

08:55AM 3 A Yes.

08:55AM 4 Q The first night, was that at The District?

08:55AM 5 A Yes.

08:55AM 6 Q Who did you do it with?

08:55AM 7 A Kaulana Freitas.

08:55AM 8 Q And before it happened, do you recall going to

08:55AM 9 Mr. Stancil's house?

08:55AM 10 A I'm not sure if we went to his house on the first night or

08:56AM 11 the second night.

08:56AM 12 Q Okay. Do you recall talking to Mr. Stancil in advance

08:56AM 13 though of pouring the chemicals out?

08:56AM 14 A Yes.

08:56AM 15 Q Did he give you instruction on how you should do it?

08:56AM 16 A Yes.

08:56AM 17 Q What did he tell you?

08:56AM 18 A He told me that all they had to do was leak it on the

08:56AM 19 floor and it would clear the club out.

08:56AM 20 Q Did he tell -- in that conversation, did he tell you he

08:56AM 21 also had prior experience doing that?

08:56AM 22 A Yes.

08:56AM 23 Q What did he tell you?

08:56AM 24 MR. KENNEDY: Objection, hearsay, past narrative, Your

08:56AM 25 Honor.

08:56AM 1 MR. NAMMAR: Coconspirator statement.

08:56AM 2 THE COURT: Overruled. Go ahead.

08:56AM 3 THE WITNESS: He told me he leaked it at the club

08:56AM 4 Addiction near the DJ booth.

08:56AM 5 BY MR. NAMMAR:

08:56AM 6 Q He told you he did the same thing at the club Addiction?

08:56AM 7 A Yes.

08:56AM 8 Q Near the DJ booth?

08:56AM 9 A Yes.

08:56AM 10 Q Did you know what he was talking about club Addiction?

08:56AM 11 A I knew what club that was, yes.

08:56AM 12 Q Where was that?

08:56AM 13 A It's above the Modern hotel across the Red Lobster.

08:56AM 14 Q Is it in Waikiki?

08:56AM 15 A Yes.

08:56AM 16 Q Had you been to that club before?

08:57AM 17 A Yes.

08:57AM 18 Q Did Mr. Miske give you any instructions related to Fabric?

08:57AM 19 A He said that if we got the chemical on the couch or

08:57AM 20 something material like that it wouldn't -- they wouldn't be

08:57AM 21 able to get it out.

08:57AM 22 Q So he wanted you to get the tear gas on a couch or

08:57AM 23 something like that?

08:57AM 24 A Yes.

08:57AM 25 Q So the first night you said you did District with

08:57AM 1 Mr. Kaulana Freitas?

08:57AM 2 A Yes.

08:57AM 3 Q You were the driver?

08:57AM 4 A Yes.

08:57AM 5 Q Where do you recall parking before -- well, did -- does

08:57AM 6 Mr. Freitas end up going into the club?

08:57AM 7 A Yes.

08:57AM 8 Q Where do you park before that happens?

08:58AM 9 A We were parked right across the street in the Ala Moana

08:58AM 10 parking lot.

08:58AM 11 Q And does Mr. Freitas go into the club for a period of

08:58AM 12 time?

08:58AM 13 A Yes.

08:58AM 14 Q And do you see him when he returns?

08:58AM 15 A Yes.

08:58AM 16 Q And when he returns, does he tell you what he did?

08:58AM 17 A Yes.

08:58AM 18 Q What did he tell you?

08:58AM 19 A He told me he leaked the tear gas on the floor.

08:58AM 20 Q And do you recall seeing anybody on the first night

08:58AM 21 leaving the club?

08:58AM 22 A Yes.

08:58AM 23 Q What did you see?

08:58AM 24 A We seen everybody running out.

08:58AM 25 Q Do you recall on the first night at District whether you

08:58AM 1 felt any effects when Mr. Freitas came back?

08:58AM 2 A Yes.

08:58AM 3 Q What effects were you feeling?

08:58AM 4 A Our eyes was burning.

08:58AM 5 Q Where were -- is this in the car?

08:58AM 6 A Yes.

08:58AM 7 Q So your eyes are burning in the car?

08:58AM 8 A Yes.

08:58AM 9 Q Do you recall after you dumped out -- after the tear

08:59AM 10 gas -- after you were told the tear gas was dumped out, do you

08:59AM 11 recall having a conversation with Mr. Miske?

08:59AM 12 A We let him know it was done.

08:59AM 13 Q How did you reach out to him and tell him that?

08:59AM 14 A I'm not sure if we texted or we called.

08:59AM 15 Q Do you remember what his response was?

08:59AM 16 A He said he was going to go by and check it out.

08:59AM 17 Q Second night, do you -- do you recall doing it on

08:59AM 18 consecutive nights?

08:59AM 19 A Yes.

08:59AM 20 Q Okay. Second night was what club?

08:59AM 21 A Ginza.

08:59AM 22 Q Does Mr. Miske ask you to do that, too?

08:59AM 23 A Yes.

08:59AM 24 Q Does he say anything about the type of person you should

08:59AM 25 take with you?

08:59AM 1 A He told me to take a female with me because they would be  
08:59AM 2 less obvious.

09:00AM 3 Q Did he give you any suggestions or did he leave that up to  
09:00AM 4 you as far as which female to get?

09:00AM 5 A He knew we were kind of hanging out with Ashlin. He told  
09:00AM 6 me to take Ash with me.

09:00AM 7 Q Ashlin Akau?

09:00AM 8 A Yes.

09:00AM 9 Q And did you recruit Ashlin?

09:00AM 10 A Yes.

09:00AM 11 Q Was any money discussed at any point with Mr. Miske?

09:00AM 12 A We were supposed to get paid after it.

09:00AM 13 Q Who told you that?

09:00AM 14 A Mike.

09:00AM 15 Q Did he tell you an amount?

09:00AM 16 A I'm not sure.

09:00AM 17 Q Did you then recruit Ashlin Akau?

09:00AM 18 A Yes.

09:00AM 19 Q Was Ms. Akau trusted at this point?

09:00AM 20 A Yes.

09:00AM 21 Q Had she helped you with some of the robberies that you  
09:00AM 22 testified to yesterday?

09:00AM 23 A Yes.

09:00AM 24 Q And in advance of Ginza, do you recall going to John  
09:00AM 25 Stancil's house?



09:00AM 1 A Yes.

09:00AM 2 Q Who was with you?

09:01AM 3 A Ash.

09:01AM 4 Q And what do you recall happening at John Stancil's house?

09:01AM 5 A We went over there to get the tear gas chemical.

09:01AM 6 Q And did you see Mr. Stancil pouring it out in anything?

09:01AM 7 A We poured it into like a squirt bottle.

09:01AM 8 Q A square what?

09:01AM 9 A A squirt bottle.

09:01AM 10 Q Okay. And did you see what he got it out of?

09:01AM 11 A It was like a big white container.

09:01AM 12 Q A big white container?

09:01AM 13 A Yes.

09:01AM 14 MR. NAMMAR: Your Honor, can we publish 6-45 at this

09:01AM 15 point?

09:01AM 16 THE COURT: You may. Go ahead.

09:01AM 17 BY MR. NAMMAR:

09:01AM 18 Q Do you recognize what is shown here, Mr. Smith?

09:01AM 19 A Yes.

09:01AM 20 Q What is shown there?

09:01AM 21 A That's where I met Johnnie to grab the chemical.

09:01AM 22 Q And where -- where were you parked when you went?

09:01AM 23 A In the driveway.

09:02AM 24 Q In the driveway where the gray minivan is?

09:02AM 25 A Yes.

09:02AM 1 Q And where -- where do you recall that Mr. Stancil

09:02AM 2 retrieved the chemical from?

09:02AM 3 A We poured it -- we poured it in the garage. I think it

09:02AM 4 came out of the closet in the garage.

09:02AM 5 Q Okay. Do you see the garage in this photo?

09:02AM 6 A Yes.

09:02AM 7 Q Can you put an X on it? For the record, you're marking

09:02AM 8 the right part of the photo. What car were -- do you recall

09:02AM 9 what car you took?

09:02AM 10 A I was in my Lexus.

09:02AM 11 Q Is that a sedan?

09:02AM 12 A Yes.

09:02AM 13 Q So after you --

09:02AM 14 MR. NAMMAR: We can take that down.

09:02AM 15 BY MR. NAMMAR:

09:02AM 16 Q After you get the -- you and Ash -- Ashlin get the

09:02AM 17 chemicals from Mr. Stancil, do you have some time to kill?

09:02AM 18 A Yes.

09:02AM 19 Q What do you guys do?

09:03AM 20 A We were just driving. We end up driving to town. We're

09:03AM 21 parked across Ala Moana.

09:03AM 22 Q Do you end up meeting with Mr. Miske at Ala Moana?

09:03AM 23 A Yes.

09:03AM 24 Q At the mall?

09:03AM 25 A Yes.

09:03AM 1 Q What does Mr. Miske -- is he driving when he meets up with  
09:03AM 2 you?

09:03AM 3 A I think it was his Lexus.

09:03AM 4 Q Okay. Was that a SUV or a sedan?

09:03AM 5 A It was a sedan.

09:03AM 6 Q And when Mr. Miske meets up with you in the Lexus, what do  
09:03AM 7 you do?

09:03AM 8 A I jump in the car with him.

09:03AM 9 Q Does Ashlin -- what about Ashlin?

09:03AM 10 A Ash stays in my car and waits for us to come back.

09:03AM 11 Q And what do you guys -- what do you and Mr. Miske do?

09:03AM 12 A We go to the KTV Lounge. One of his girlfriends couldn't  
09:03AM 13 get a room over there and we went over there to shake up the  
09:04AM 14 security.

09:04AM 15 Q Before you went into the lounge, did Mr. Miske give you  
09:04AM 16 anything?

09:04AM 17 A A baton.

09:04AM 18 Q A baton like the photo that we just looked at?

09:04AM 19 A Yes.

09:04AM 20 Q A metal one that extends?

09:04AM 21 A Yes.

09:04AM 22 Q What -- what happened when -- well, did you have the baton  
09:04AM 23 with you when you went inside with Mr. Miske?

09:04AM 24 A Yes.

09:04AM 25 Q And was it -- would it have been visible to other folks in

09:04AM 1 KTV Lounge that you had it?

09:04AM 2 A It could have been. It was right behind my hand.

09:04AM 3 Q Okay. And what happened when you and Mr. Miske went into

09:04AM 4 the lounge?

09:04AM 5 A He started yelling at the security to get Heather a room

09:04AM 6 and we just -- we were just there shaking up the security.

09:04AM 7 Q Shaking up security?

09:04AM 8 A Yes.

09:04AM 9 Q Who was doing the yelling?

09:04AM 10 A Mike.

09:04AM 11 Q And were you right next to him when he was doing that?

09:04AM 12 A Yes.

09:04AM 13 Q Did it work?

09:04AM 14 A Yes.

09:04AM 15 Q Why do you think it worked?

09:05AM 16 A I think she got a room after we left.

09:05AM 17 Q Is that when Mr. Miske told you?

09:05AM 18 A I think so.

09:05AM 19 Q Did you ever have to assault anybody over there?

09:05AM 20 A No.

09:05AM 21 Q Why not?

09:05AM 22 A Because he didn't tell me to assault anybody.

09:05AM 23 Q So does Mr. Miske then take you back to your car at Ala

09:05AM 24 Moana?

09:05AM 25 A Yes.

09:05AM 1 Q Where Ashlin is waiting?

09:05AM 2 A Yes.

09:05AM 3 Q And does he give you any instructions about when you  
09:05AM 4 should release the tear gas in the club?

09:05AM 5 A He just told us to wait till it gets crowded and wait till  
09:05AM 6 the club is happening.

09:05AM 7 Q Wait till the club is full with people?

09:05AM 8 A Yes.

09:05AM 9 Q What do you do from there with Ashlin Akau?

09:05AM 10 A I drive up to the front of Ginza. She goes in. I'm  
09:06AM 11 texting her asking her where she was at in the club, and if she  
09:06AM 12 did it or not.

09:06AM 13 Q Do you recall talking to her about how many people were in  
09:06AM 14 the club?

09:06AM 15 A Yes.

09:06AM 16 Q What do you recall talking to her about that?

09:06AM 17 A I was just asking her if it was busy.

09:06AM 18 Q So you could follow Mr. Miske's instructions; is that  
09:06AM 19 right?

09:06AM 20 A Yes.

09:06AM 21 Q Does she tell you that she ends up releasing the chemical?

09:06AM 22 A Yes.

09:06AM 23 Q And after she release it -- releases it, what happens?

09:06AM 24 A She comes out. The club starts clearing out.

09:06AM 25 Q You saw the club clearing out?

09:06AM 1 A Yes.

09:06AM 2 Q And like the previous night when Miss -- does Miss Akau

09:06AM 3 get in your car?

09:06AM 4 A Yes.

09:06AM 5 Q And you guys drive away?

09:06AM 6 A Yes.

09:06AM 7 Q Do you feel any effects?

09:06AM 8 A My eyes were burning.

09:07AM 9 Q Is it hard to breathe at times?

09:07AM 10 A Yes.

09:07AM 11 Q Do you recall reaching out to Mr. Miske at that point?

09:07AM 12 A Yes.

09:07AM 13 Q What do you recall about that conversation?

09:07AM 14 A I just let him know I was done, that we -- that we did it.

09:07AM 15 Q Was that a phone call or a text or?

09:07AM 16 A I'm not sure.

09:07AM 17 Q Okay. And did you see anything in relation to Mr. Miske

09:07AM 18 and the police?

09:07AM 19 A I think while I was talking to him later on, he -- when he

09:07AM 20 was going to check it out, he said that he is being pulled

09:07AM 21 over.

09:07AM 22 MR. KENNEDY: Objection, nonresponsive, Your Honor.

09:07AM 23 THE COURT: Overruled. Go ahead. You can answer.

09:07AM 24 THE WITNESS: He said that he was being pulled over.

09:07AM 25 Me and Ashlin turned around and we went and parked on top of

09:07AM 1 the Ala Moana parking garage and we looked down and we seen him  
09:07AM 2 pulled over.

09:07AM 3 Q Who did you see him pulled over by?

09:08AM 4 A HPD.

09:08AM 5 Q Do you recall what car he was driving when he was pulled  
09:08AM 6 over?

09:08AM 7 A He was in a Lexus.

09:08AM 8 Q Following this, did you ever get any money from Mr. Miske?

09:08AM 9 A We were supposed to but we didn't.

09:08AM 10 Q You didn't?

09:08AM 11 A No.

09:08AM 12 Q Following this had you retained some of the tear gas?

09:08AM 13 A Yes.

09:08AM 14 Q Why?

09:08AM 15 A We didn't know where we could let it go or dump it.

09:08AM 16 Q Okay. And what was that tear gas in?

09:08AM 17 A They were in a little Jagermeister bottle.

09:08AM 18 Q And how long did you have that for?

09:08AM 19 A Until it got taken.

09:09AM 20 MR. NAMMAR: Okay. Your Honor, can we show the -- for  
09:09AM 21 the witness only, can we show 1-998 from the original list?

09:09AM 22 THE COURT: Okay. I have it. Go ahead.

09:09AM 23 MR. NAMMAR: Thank you.

09:09AM 24 If we could zoom in just on this first page for some  
09:09AM 25 of the messages so Mr. Smith can see them a little bit better.

09:09AM 1 BY MR. NAMMAR:

09:09AM 2 Q Mr. Smith, do you recall reviewing -- do you recognize  
09:09AM 3 these messages?

09:09AM 4 A Yes.

09:09AM 5 Q Do you recall reviewing them prior to when you testified?

09:09AM 6 A Yes.

09:09AM 7 Q Do you recognize the number that -- telephone number  
09:09AM 8 that's shown here at the top?

09:09AM 9 A Yes.

09:09AM 10 Q What is that telephone number? Can you read it into the  
09:09AM 11 record?

09:09AM 12 A (808) 954-5854.

09:09AM 13 Q Whose telephone number was that?

09:09AM 14 A That was mine.

09:09AM 15 Q And were you using -- were you using that phone number  
09:10AM 16 around the time of the -- disbursing the tear gas?

09:10AM 17 A Yes.

09:10AM 18 Q What are these text messages about?

09:10AM 19 A I was going to checkout a car.

09:10AM 20 Q And are they between you and the seller of that car?

09:10AM 21 A Yes.

09:10AM 22 Q And do they show at the top that that was your phone  
09:10AM 23 number in or around April of 2017?

09:10AM 24 A Yes.

09:10AM 25 MR. NAMMAR: Your Honor, I'd move to admit 1-998.



09:10AM 1 THE COURT: Any objection?

09:10AM 2 MR. KENNEDY: No objection.

09:10AM 3 THE COURT: 1-998 is admitted without objection. You

09:10AM 4 may publish.

09:10AM 5 (Exhibit 1-998 was received in evidence.)

09:10AM 6 MR. NAMMAR: Thank you. If we could just zoom in on

09:10AM 7 the first message?

09:10AM 8 BY MR. NAMMAR:

09:10AM 9 Q So what kind of car do you recall you were trying to

09:10AM 10 acquire?

09:10AM 11 A A BMW.

09:10AM 12 Q Did you end up acquiring that car from the seller?

09:10AM 13 A Yes.

09:10AM 14 Q And the number that's at the top, you believe that's your

09:10AM 15 number?

09:10AM 16 A Yes.

09:11AM 17 MR. NAMMAR: Your Honor, for the witness only, can we

09:11AM 18 show 6-664 from the original list, thank you. Just the first

09:11AM 19 page. And if we could zoom in on the target phone numbers.

09:11AM 20 BY MR. NAMMAR:

09:11AM 21 Q Mr. Smith, do you see that list of phone numbers?

09:11AM 22 A Yes.

09:11AM 23 Q Do you recognize those phone numbers?

09:11AM 24 A Yes.

09:11AM 25 Q The one that's on the bottom 954-5854, do you recognize

09:11AM 1 that number?

09:11AM 2 A Yes.

09:11AM 3 Q That is -- is that the same number that we just looked at?

09:11AM 4 A Yes.

09:11AM 5 Q That's your number?

09:11AM 6 A Yes.

09:11AM 7 Q The one that's just to the top (808) 585-1944, do you  
09:11AM 8 recognize that number?

09:11AM 9 A Yes.

09:11AM 10 Q Whose phone number do you recognize that to be?

09:11AM 11 A That was Kaulana's.

09:11AM 12 Q And then the one above that (808) 469-5616, do you  
09:12AM 13 recognize that number?

09:12AM 14 A Yes.

09:12AM 15 Q Whose phone number do you recognize that to be?

09:12AM 16 A That was Johnnie's.

09:12AM 17 Q Johnnie Stancil?

09:12AM 18 A Yes.

09:12AM 19 Q And the -- the phone number above that (808) 439-7800, do  
09:12AM 20 you recognize that number?

09:12AM 21 A Yes.

09:12AM 22 Q Who do you recognize that phone number to be?

09:12AM 23 A That was Mike's.

09:12AM 24 Q And do you recall that these individuals were all using

09:12AM 25 these numbers around the time of the release of the tear gas in

09:12AM 1 2017?

09:12AM 2 A Yes.

09:12AM 3 MR. NAMMAR: We can take that down.

09:12AM 4 Your Honor, can we publish 6-46 from our original list  
09:12AM 5 which I believe is in.

09:12AM 6 THE COURT: It is, go ahead.

09:12AM 7 BY MR. NAMMAR:

09:12AM 8 Q And if we could -- well, do you recognize this map?

09:13AM 9 A Yes.

09:13AM 10 Q Do you see The District nightclub?

09:13AM 11 A Yes.

09:13AM 12 Q Can you circle it? And is that the area that you released  
09:13AM 13 the chemicals on the first night?

09:13AM 14 A Yes.

09:13AM 15 Q And for the record, you're circling next to the words The  
09:13AM 16 District. Do you -- do you recall where the Ginza nightclub  
09:13AM 17 was?

09:13AM 18 A Yes.

09:13AM 19 Q Was it close by to The District?

09:13AM 20 A Yes.

09:13AM 21 Q Can you put an X in the vicinity where you think the Ginza  
09:13AM 22 nightclub was? And for the record, you're putting an X about a  
09:13AM 23 block over on Kona Street?

09:13AM 24 A Yes.

09:13AM 25 Q Do you recall the vicinity where Mr. Miske was stopped by

09:13AM 1 the police?

09:13AM 2 A Yes.

09:13AM 3 Q Where was that?

09:13AM 4 A It was over here by The District across.

09:13AM 5 Q Closer to The District?

09:13AM 6 A Yes.

09:13AM 7 Q Was it on Kona Street?

09:13AM 8 A Yes.

09:14AM 9 MR. NAMMAR: If we can now, Your Honor, publish 6-73

09:14AM 10 from the original list.

09:14AM 11 THE COURT: Go ahead.

09:14AM 12 BY MR. NAMMAR:

09:14AM 13 Q Mr. Smith, do you recognize what's up on the screen?

09:14AM 14 A Yes.

09:14AM 15 Q What's up on the screen?

09:14AM 16 A That's a little club outside of The District right on the  
09:14AM 17 side of it.

09:14AM 18 Q And is The District anywhere in the building that's in  
09:14AM 19 front of us?

09:14AM 20 A Yes.

09:14AM 21 Q Where is it?

09:14AM 22 A It's right across the street.

09:14AM 23 Q Kind of where the red truck is?

09:14AM 24 A Yes.

09:14AM 25 Q Okay. Where did you -- can you see the vicinity where you

09:14AM 1 parked when Kaulana went in or is it outside of view?

09:14AM 2 A It's outside of view.

09:14AM 3 Q Okay. Where -- where did you park?

09:14AM 4 A I was parked right across the street kind of like how we  
09:15AM 5 are looking at the red truck right now.

09:15AM 6 Q Okay. So were you on the mountain side of this building  
09:15AM 7 or the ocean side?

09:15AM 8 A Towards the ocean side.

09:15AM 9 Q Okay. In the mall area?

09:15AM 10 A Yes.

09:15AM 11 MR. NAMMAR: Can we publish 6-74?

09:15AM 12 THE COURT: Yes.

09:15AM 13 BY MR. NAMMAR:

09:15AM 14 Q Do you recognize this photo, Mr. Smith?

09:15AM 15 A Yes.

09:15AM 16 Q What is this?

09:15AM 17 A That's The District nightclub entrance.

09:15AM 18 Q Had you been there at some point prior?

09:15AM 19 A Yes.

09:15AM 20 MR. NAMMAR: May we publish 6-48 alpha from the third  
09:15AM 21 supplemental list?

09:15AM 22 THE COURT: Go ahead.

09:15AM 23 MR. NAMMAR: Thank you.

09:15AM 24 BY MR. NAMMAR:

09:16AM 25 Q Do you recognize the photo that's up on the screen 6-48

09:16AM 1 alpha?

09:16AM 2 A Yes.

09:16AM 3 Q What's shown here?

09:16AM 4 A Ginza.

09:16AM 5 MR. NAMMAR: We can take that down.

09:16AM 6 BY MR. NAMMAR:

09:16AM 7 Q So you said that the -- you kept some of the tear gas in a  
09:16AM 8 Jagermeister bottle?

09:16AM 9 A Yes.

09:16AM 10 Q And that was eventually taken by the police?

09:16AM 11 A Yes.

09:16AM 12 Q Now, we've been referring to it as tear gas but did you  
09:16AM 13 actually know what the chemical was?

09:16AM 14 A No.

09:16AM 15 Q Did you have a conversation with Mr. Miske about what the  
09:16AM 16 chemical was used for?

09:16AM 17 A I just knew it was like something used for the fumigation.

09:16AM 18 Q You've never been a fumigator?

09:16AM 19 A No.

09:16AM 20 Q And when it was taken by the police -- well, what were the  
09:17AM 21 circumstance it was taken by the police that you recall?

09:17AM 22 A We were surrounded by CRU.

09:17AM 23 Q Is that the crime reduction unit that you talked about  
09:17AM 24 yesterday?

09:17AM 25 A Yes.

09:17AM 1 Q And what happened?

09:17AM 2 A They were just searching us and they took my bag.

09:17AM 3 Q What kind of bag was it?

09:17AM 4 A A Gucci bag.

09:17AM 5 Q What was inside the Gucci bag?

09:17AM 6 A My gun, the tear gas, the -- and the Jagermeister bottle

09:17AM 7 and another fake one -- fake gun.

09:17AM 8 Q Fake gun?

09:17AM 9 A Yeah.

09:17AM 10 Q Who were you with when you were pulled over?

09:17AM 11 A Kaulana.

09:17AM 12 Q Who did you get the gun from that you had in the car, if

09:17AM 13 you recall?

09:17AM 14 A Mills -- Miller.

09:17AM 15 Q When you were initially pulled over and you had all that

09:17AM 16 in your -- well, who was driving that you recall?

09:17AM 17 A Kaulana.

09:17AM 18 Q Kaulana Freitas?

09:18AM 19 A Yes.

09:18AM 20 Q When you were initially pulled over and you had all that

09:18AM 21 in your car, were you concerned?

09:18AM 22 A Yes.

09:18AM 23 Q Did you call anybody?

09:18AM 24 A I called a lawyer that we had Alen Kaneshiro.

09:18AM 25 Q You called him during the traffic stop?

09:18AM 1 A Yes.

09:18AM 2 Q And after all that -- those things were taken, did you  
09:18AM 3 reach out to Mr. Miske?

09:18AM 4 A Yes.

09:18AM 5 Q And were you concerned at that point that the police had  
09:18AM 6 taken all those items from you?

09:18AM 7 A Yes.

09:18AM 8 Q What did Mr. Miske tell you?

09:18AM 9 A To stay low and to come see me and we'll figure it out.

09:18AM 10 Q Did you have follow-up conversations with him about it?

09:18AM 11 A Yes.

09:18AM 12 Q What did he tell you?

09:18AM 13 A I would just ask if there was any updates because there  
09:18AM 14 was a gun in the bag. I was on probation. He just let me know  
09:19AM 15 like to talk to Alen.

09:19AM 16 MR. NAMMAR: Okay. Your Honor, can we publish 6-37 at  
09:19AM 17 this point from the original list?

09:19AM 18 THE COURT: Go ahead.

09:19AM 19 BY MR. NAMMAR:

09:19AM 20 Q Mr. Smith, 6-37 is up. Do you recognize the vehicle  
09:19AM 21 that's shown here?

09:19AM 22 A Yes.

09:19AM 23 Q And do you recognize the vicinity that's in the  
09:19AM 24 background?

09:19AM 25 A Yes.



09:19AM 1 Q What is shown here?

09:19AM 2 A Kaulana's car.

09:19AM 3 Q Do you believe this is during the traffic stop?

09:19AM 4 A Yes.

09:19AM 5 MR. NAMMAR: Your Honor, can we publish 6-32?

09:19AM 6 THE COURT: You may.

09:19AM 7 BY MR. NAMMAR:

09:19AM 8 Q Do you recognize the people shown here?

09:19AM 9 A Yes.

09:19AM 10 Q Does this also appear to you to be during the traffic  
09:19AM 11 stop?

09:19AM 12 A Yes.

09:19AM 13 Q Do you remember the police taking a photo of you?

09:19AM 14 A Yes.

09:19AM 15 Q Which person are you?

09:19AM 16 A I'm the one in the red shirt.

09:19AM 17 Q And who's in the black shirt?

09:20AM 18 A Kaulana.

09:20AM 19 Q Do you recognize anything between your legs?

09:20AM 20 A I think the straps from my backpack.

09:20AM 21 Q Can you circle where you think you see the strap from your  
09:20AM 22 backpack? So for the record, you're circling the green and red  
09:20AM 23 strap?

09:20AM 24 A Yes.

09:20AM 25 MR. NAMMAR: Can we publish 6-25, Your Honor?

09:20AM 1 THE COURT: Go ahead.

09:20AM 2 BY MR. NAMMAR:

09:20AM 3 Q Do you recognize what is shown here, Mr. Smith?

09:20AM 4 A Yes.

09:20AM 5 Q What is shown here?

09:20AM 6 A The girls that was in the back seat of the car.

09:20AM 7 Q Did they have anything to do with the items that were in  
09:20AM 8 your backpack?

09:20AM 9 A No.

09:20AM 10 MR. NAMMAR: May we publish, Your Honor, 6-29?

09:20AM 11 THE COURT: Yes.

09:20AM 12 BY MR. NAMMAR:

09:20AM 13 Q Do you recognize, Mr. Smith, what is shown here?

09:20AM 14 A Yes.

09:20AM 15 Q What is shown here?

09:20AM 16 A That was the bag they took.

09:20AM 17 MR. NAMMAR: Can we publish 6-23?

09:21AM 18 THE COURT: Yes.

09:21AM 19 BY MR. NAMMAR:

09:21AM 20 Q Do you recognize the things that are shown in 6-23?

09:21AM 21 A Yes.

09:21AM 22 Q What is shown here?

09:21AM 23 A My gun and the other one, the fake one.

09:21AM 24 Q Which is the real gun and which is the fake gun?

09:21AM 25 A The silver one is real and the black one is fake.

09:21AM 1 MR. NAMMAR: Can we publish 6-28, Your Honor?

09:21AM 2 THE COURT: You may.

09:21AM 3 BY MR. NAMMAR:

09:21AM 4 Q Do you recognize what's shown in 6-28?

09:21AM 5 A Yes.

09:21AM 6 Q What is it?

09:21AM 7 A The gun that was in the bag that day.

09:21AM 8 Q Who did you get this gun from?

09:21AM 9 A From Miller.

09:21AM 10 MR. NAMMAR: Can we publish 6-30?

09:21AM 11 THE COURT: Yes.

09:21AM 12 BY MR. NAMMAR:

09:21AM 13 Q Do you recognize this, Mr. Smith?

09:21AM 14 A Yes.

09:21AM 15 Q What is it?

09:21AM 16 A I think it's the other side of the gun.

09:21AM 17 MR. NAMMAR: Can we publish 6-34?

09:21AM 18 THE COURT: Yes.

09:22AM 19 BY MR. NAMMAR:

09:22AM 20 Q Do you recognize this, Mr. Smith?

09:22AM 21 A Yes.

09:22AM 22 Q What is it?

09:22AM 23 A That was the other gun that was in the bag, the fake one.

09:22AM 24 MR. NAMMAR: Can we publish 6-35?

09:22AM 25 BY MR. NAMMAR:

09:22AM 1 Q Do you recognize this, Mr. Smith?

09:22AM 2 A Yes.

09:22AM 3 Q What is it?

09:22AM 4 A It's a red smoke grenade.

09:22AM 5 Q Who did you get this from?

09:22AM 6 A That -- we were cleaning out my friend's house and that  
09:22AM 7 was part of Lance's stuff.

09:22AM 8 Q Lance Bermudez?

09:22AM 9 A Yes.

09:22AM 10 Q Was this ever -- anything like this ever released in the  
09:22AM 11 nightclubs?

09:22AM 12 A No.

09:22AM 13 Q District or Ginza. Why did you hang on to it?

09:22AM 14 A We just thought it was cool. I never seen it before.

09:22AM 15 Q Did you ever release -- have you ever released anything  
09:22AM 16 like this?

09:22AM 17 A No.

09:22AM 18 MR. NAMMAR: May we publish 6-33?

09:22AM 19 THE COURT: You may.

09:22AM 20 BY MR. NAMMAR:

09:22AM 21 Q Do you recognize what is shown here?

09:22AM 22 A Yes.

09:22AM 23 Q Is -- what is shown here?

09:23AM 24 A Something from my car.

09:23AM 25 Q Is that the kind of car you had, a GS400?

09:23AM 1 A Yes.

09:23AM 2 Q Is that the kind of car you recall driving on the nights  
09:23AM 3 when the tear gas was released?

09:23AM 4 A Yes.

09:23AM 5 MR. NAMMAR: Can we publish 6-26?

09:23AM 6 THE COURT: You may.

09:23AM 7 BY MR. NAMMAR:

09:23AM 8 Q Do you recognize what is shown here?

09:23AM 9 A Yes.

09:23AM 10 Q What is shown here?

09:23AM 11 A The Jagermeister bottle that had the tear gas stuff in it.

09:23AM 12 Q And this was also in your backpack?

09:23AM 13 A Yes.

09:23AM 14 Q That was taken by the police?

09:23AM 15 A Yes.

09:23AM 16 Q Do you recall -- how close in time do you recall that to  
09:23AM 17 be from when you actually released the tear gas?

09:23AM 18 A I'm not too sure but not long after.

09:23AM 19 Q Not long after?

09:23AM 20 A Yes.

09:24AM 21 MR. NAMMAR: We can take that down.

09:24AM 22 Can we show the witness only 4-144 from our 13th  
09:24AM 23 supplemental list?

09:24AM 24 THE COURT: Go ahead.

09:24AM 25 BY MR. NAMMAR:

09:24AM 1 Q Mr. Smith, do you recognize the person in this photo?

09:24AM 2 A Yes.

09:24AM 3 Q Who is it?

09:24AM 4 A Officer Spiker.

09:24AM 5 Q And around 2017, did Mr. Miske show you a photo of Officer

09:24AM 6 Spiker?

09:24AM 7 A Yes.

09:24AM 8 MR. NAMMAR: Your Honor, I move to admit 4-144.

09:24AM 9 THE COURT: Any objection?

09:24AM 10 MR. KENNEDY: No objection.

09:25AM 11 THE COURT: 4-144 is admitted. You may publish.

09:25AM 12 MR. NAMMAR: Thank you.

09:25AM 13 (Exhibit 4-144 was received in evidence.)

09:25AM 14 BY MR. NAMMAR:

09:25AM 15 Q So the jury can see it, this is Officer Spiker you said?

09:25AM 16 A Yes.

09:25AM 17 Q And when Mr. Miske initially showed you a photo of Officer

09:25AM 18 Spiker, was he in uniform like this one?

09:25AM 19 A No.

09:25AM 20 Q Okay. And what did he -- when he was initially -- did he

09:25AM 21 initially talk to you about Mr. Spiker?

09:25AM 22 A He told me that Spiker was harassing him and one of his

09:25AM 23 girlfriends.

09:25AM 24 Q And what did he ask you to do, if anything, with respect

09:25AM 25 to Spiker?

09:25AM 1 A He said for us to figure out a way to assault him.

09:25AM 2 Q What was going to be your role on that?

09:25AM 3 A I was supposed to assault him.

09:25AM 4 Q Officer Spiker?

09:25AM 5 A Yes.

09:25AM 6 Q Did you know he was a police officer when you had this  
09:25AM 7 initial conversation with Mr. Miske?

09:25AM 8 A No.

09:25AM 9 Q Did -- in the initial conversation, did you agree to do  
09:26AM 10 it?

09:26AM 11 A We talked about it and like I would have done it if he --

09:26AM 12 Q You were on call for him at that time?

09:26AM 13 A Yes.

09:26AM 14 Q Later on did you figure out that the person that you were  
09:26AM 15 shown a photo of Spiker was actually a police officer?

09:26AM 16 A Yes.

09:26AM 17 Q How did you figure that out?

09:26AM 18 A Because he started harassing me, too, and pulling me over.

09:26AM 19 Q Did he end up pulling you over for DUI?

09:26AM 20 A Yes.

09:26AM 21 Q And did he arrest you for that?

09:26AM 22 A Yes.

09:26AM 23 Q Did you later learn that he also had contact with Johnnie  
09:26AM 24 Stancil?

09:26AM 25 A Yes.

09:26AM 1 Q How did you learn that?

09:26AM 2 A From Johnnie and Mike.

09:26AM 3 Q Did you also learn that he had -- later learned that he  
09:26AM 4 had pulled over Michael Miske?

09:26AM 5 A Yes.

09:26AM 6 Q And that he had pulled over Andi?

09:27AM 7 A Yes.

09:27AM 8 Q Who did you hear that from?

09:27AM 9 A From Johnnie and Mike.

09:27AM 10 Q Who is Andi?

09:27AM 11 A One of Mike's girlfriends.

09:27AM 12 Q And then at that point, did Miske let you know about a  
09:27AM 13 plan he had to lure Officer Spiker?

09:27AM 14 A He just said that he would have a way to do it, that he  
09:27AM 15 knew friends that were police officers, too.

09:27AM 16 Q Miske told you he knew friends that were police officers?

09:27AM 17 A Yes.

09:27AM 18 Q Were you concerned about being involved in an assault of a  
09:27AM 19 police officer like that at that point?

09:27AM 20 A Yes.

09:27AM 21 Q Why?

09:27AM 22 A Because he's a police officer.

09:27AM 23 Q Did you think -- did you think it wasn't a good idea when  
09:27AM 24 you figure out he was a police officer?

09:27AM 25 A Yes.



09:27AM 1 Q Did you end up assaulting Officer Spiker?

09:27AM 2 A No.

09:28AM 3 MR. NAMMAR: We can take that down.

09:28AM 4 BY MR. NAMMAR:

09:28AM 5 Q In around 2016 or '17, do you recall Miske talking to you

09:28AM 6 about an individual named Gursh?

09:28AM 7 A Yes.

09:28AM 8 Q What's Gursh's last name?

09:28AM 9 A Kahale.

09:28AM 10 Q What did you know about Gursh at that time?

09:28AM 11 A That he was -- he had money and he was doing good in

09:28AM 12 Vegas.

09:28AM 13 Q What did you understand that Gursh had money from?

09:28AM 14 A From selling drugs.

09:28AM 15 Q What did you understand about Gursh's relationship, if

09:28AM 16 anything, with Wayne Miller?

09:28AM 17 A I knew that was Mill's boy.

09:28AM 18 Q That was Mill's boy?

09:28AM 19 A Yes.

09:28AM 20 Q Do you recall having a conversation with Mr. Miske about

09:28AM 21 Gursh?

09:28AM 22 A Yes.

09:28AM 23 Q What did he tell you?

09:28AM 24 A He told me that they were at the beach house. He was

09:29AM 25 cruising with Miller and I could go over there and probably get

09:29AM 1 him at Miller's. He was a -- that he was a good lick.

09:29AM 2 THE COURT REPORTER: "That he was a good"?

09:29AM 3 THE WITNESS: Lick, a good robbery.

09:29AM 4 BY MR. NAMMAR:

09:29AM 5 Q So he told you you should rob Gursh?

09:29AM 6 A Yes.

09:29AM 7 Q Did he tell you during that conversation about what he  
09:29AM 8 thought about Gursh?

09:29AM 9 A He just didn't like Gursh.

09:29AM 10 Q When you say the beach house, did he explain what that was  
09:29AM 11 the beach house?

09:29AM 12 A I think they just told me that Miller was cruising with  
09:29AM 13 him at the beach house.

09:29AM 14 Q Did you know where it was?

09:29AM 15 A I think it was in Lani Kai.

09:29AM 16 Q That's near Kailua?

09:29AM 17 A Yes.

09:29AM 18 Q Did he elaborate why Gursh would be a good lick or a good  
09:30AM 19 robbery?

09:30AM 20 A He just told me Gursh -- I just knew he didn't like Gursh  
09:30AM 21 and Gursh probably had a lot of money.

09:30AM 22 Q What did you understand that Gursh did to get that money?

09:30AM 23 A Sold drugs.

09:30AM 24 Q Did you go through with the robbery?

09:30AM 25 A No.

09:30AM 1 Q Around that same time, did you have a conversation with

09:30AM 2 Johnnie Stancil about Gursh?

09:30AM 3 A Yes.

09:30AM 4 Q What did he tell you?

09:30AM 5 A He told me Mike didn't like Gursh because he told on

09:30AM 6 Russell Boy.

09:30AM 7 Q Did he explain the circumstances?

09:30AM 8 A Not really.

09:30AM 9 Q What did you understand "told on Russell Boy" to mean?

09:30AM 10 A I just knew they were in jail together and he told on him

09:30AM 11 about something.

09:30AM 12 Q And is this Russell Moscato?

09:31AM 13 A Yes.

09:31AM 14 Q One of the people that we talk about yesterday?

09:31AM 15 A Yes.

09:31AM 16 Q One of the people that you said was one of Miske's

09:31AM 17 friends?

09:31AM 18 A Yes.

09:31AM 19 Q So as we talked about yesterday, Miske was aware that you

09:31AM 20 were robbing people?

09:31AM 21 A Yes.

09:31AM 22 Q Would you brag to him about it at times?

09:31AM 23 A Yes.

09:31AM 24 Q Did it appear to you that that was part of the reason why

09:31AM 25 Mr. Miske wanted your services?

09:31AM 1 A Yes.

09:31AM 2 Q And as you talked about yesterday, you also felt like you  
09:31AM 3 had protection from being by the fact that you were associated  
09:31AM 4 with Mr. Miske; is that right?

09:31AM 5 A Yes.

09:31AM 6 Q Was -- was Mr. Miske known in the community as someone not  
09:31AM 7 to mess with?

09:31AM 8 A Yes.

09:31AM 9 Q And did people -- in moving to 2017, did people in the  
09:32AM 10 community understand that you were affiliated with Mr. Miske?

09:32AM 11 A Yes.

09:32AM 12 Q And as we talked about yesterday, you felt that when you  
09:32AM 13 were robbing drug dealers your affiliation with Mr. Miske would  
09:32AM 14 help you?

09:32AM 15 A Yes.

09:32AM 16 Q Because there would be no retaliation you thought?

09:32AM 17 A Yes.

09:32AM 18 Q And with drug dealing, you've told us yesterday you were  
09:32AM 19 involved in that, right?

09:32AM 20 A Yes.

09:32AM 21 Q But was Mr. Miske involved in your drug dealing?

09:32AM 22 A No.

09:32AM 23 Q He was aware you were doing it?

09:32AM 24 A Yes.

09:32AM 25 Q And he knew you were targeting robberies of drug dealers?

09:32AM 1 A Yes.

09:32AM 2 Q And then giving dope to others to sell?

09:32AM 3 A Yes.

09:32AM 4 Q And with the drug dealing, sometimes you didn't always pay  
09:33AM 5 your debts to people that provided you with drugs?

09:33AM 6 A Yes.

09:33AM 7 Q And did you feel that you also benefitted from your  
09:33AM 8 affiliation with Mr. Miske regarding drug debts?

09:33AM 9 A Yes.

09:33AM 10 Q Lindsey Kinney, who was that?

09:33AM 11 A Somebody who was beefing with I used to get drugs from.

09:33AM 12 Q Okay. Before you were beefing with him, what kind of  
09:33AM 13 drugs did you get from Mr. Kinney?

09:33AM 14 A Ice.

09:33AM 15 Q What kind of quantities?

09:33AM 16 A Pounds.

09:33AM 17 Q And was there a time when you owed Mr. Kinney some money  
09:33AM 18 for pounds?

09:33AM 19 A Yes.

09:33AM 20 Q You had not paid him?

09:33AM 21 A No.

09:33AM 22 Q And did you all get in a dispute over repayment?

09:33AM 23 A Yes.

09:33AM 24 Q Did Mr. Kinney start posting about you on social media?

09:33AM 25 A Yes.

09:34AM 1 Q And did Mr. Kinney also know that you were affiliated with  
09:34AM 2 Mike Miske?  
09:34AM 3 A He found out, yes.  
09:34AM 4 Q And did he start calling both you and Mr. Miske out on  
09:34AM 5 Instagram?  
09:34AM 6 A Yes.  
09:34AM 7 Q How did Mike take that?  
09:34AM 8 A He didn't like it.  
09:34AM 9 Q Did he tell you it was affront to his reputation more or  
09:34AM 10 less?  
09:34AM 11 A Yes.  
09:34AM 12 Q Yes?  
09:34AM 13 A Yes.  
09:34AM 14 Q Is there one point in time that he snapped that you  
09:34AM 15 recall?  
09:34AM 16 A Yes. Right before we went to Kualoa.  
09:34AM 17 Q What did he tell you about Kualoa?  
09:34AM 18 A Told me that Lindsey was posting videos about us and we  
09:34AM 19 were going to go over there and handle it.  
09:34AM 20 Q Did he say anything about whether he had any pull over  
09:34AM 21 there?  
09:34AM 22 A He told me that we would get in like the security at the  
09:35AM 23 front just let us in.  
09:35AM 24 Q Why did you think that was?  
09:35AM 25 A Because Mike had some pull at the movies.

09:35AM 1 Q Did you understand him to at one point work on the movies?

09:35AM 2 A Yes.

09:35AM 3 Q Before you went over to Kualoa, did you -- do you recall

09:35AM 4 having a meeting in temple valley?

09:35AM 5 A Yes.

09:35AM 6 Q Who was that meeting with?

09:35AM 7 A Norman came to meet me and Harry over there.

09:35AM 8 Q Do you recall what was discussed at that meeting?

09:35AM 9 A Yes.

09:35AM 10 Q What was discussed?

09:35AM 11 A We were asking if Lindsey had his gun on him and we were

09:35AM 12 letting him know that Mike said we were going to come over

09:35AM 13 there and beat up Lindsey.

09:35AM 14 Q Beat up Lindsey?

09:35AM 15 A Yes.

09:35AM 16 Q Why was Harry with you?

09:35AM 17 A Me and him were eating lunch together that day. He wanted

09:36AM 18 to come with me because Mike didn't really like him and he was

09:36AM 19 trying to get back in good with him.

09:36AM 20 Q Did it have anything to do with the \$10,000 you talked

09:36AM 21 about yesterday?

09:36AM 22 A It could have. I'm not sure.

09:36AM 23 Q But you're not sure?

09:36AM 24 A No.

09:36AM 25 Q Had you heard about the \$10,000 prior to this event?

09:36AM 1 A I don't remember if it was before or after.

09:36AM 2 Q Okay. After that meeting in temple valley, did you -- do  
09:36AM 3 you recall going over to the graveyard?

09:36AM 4 A Yes.

09:36AM 5 Q Who was there?

09:36AM 6 A Mike.

09:36AM 7 Q Anybody else that came?

09:36AM 8 A No.

09:36AM 9 Q Okay.

09:36AM 10 A Johnnie and Cody ended up coming later.

09:36AM 11 Q Okay.

09:36AM 12 THE COURT REPORTER: Johnnie and who?

09:36AM 13 THE WITNESS: Cody.

09:36AM 14 BY MR. NAMMAR:

09:36AM 15 Q Who is Cody?

09:36AM 16 A The -- the other brother.

09:36AM 17 Q Whose other brother?

09:36AM 18 A Mike's.

09:36AM 19 Q And when you met up with Mr. Miske at the graveyard  
09:36AM 20 initially, what happens?

09:37AM 21 A He's just telling us what we're going to do when we get  
09:37AM 22 over there to the movie set. I jumped in with him in the Jeep.  
09:37AM 23 He just told me not to let -- he was going to make like he  
09:37AM 24 wanted to fight with Lindsey but not to let him get close to  
09:37AM 25 him.



09:37AM 1 Q He said, "Don't let him get close"?

09:37AM 2 A Yes.

09:37AM 3 Q And did he say anything to you about firearms?

09:37AM 4 A He asked me if I had the gun on me in the car.

09:37AM 5 Q What did you tell him?

09:37AM 6 A Yes.

09:37AM 7 Q Do you recall John Stancil showing up later to the

09:37AM 8 graveyard?

09:37AM 9 A He came just to meet us there.

09:37AM 10 Q Okay. And what do you recall about what Mr. Stancil

09:37AM 11 brought with him?

09:37AM 12 A He had a mask, a baton and a little 25.

09:38AM 13 Q Did you have a mask?

09:38AM 14 A No.

09:38AM 15 Q So Mr. Stancil appeared to be ready with a mask, a baton

09:38AM 16 and a gun?

09:38AM 17 A Yes.

09:38AM 18 Q Were you concerned that you didn't have a mask?

09:38AM 19 A Kind of but I figure we would figure it out after.

09:38AM 20 Q So who is in what cars that you recall?

09:38AM 21 A Me and Mike are in the brown Jeep. Johnnie is in a silver

09:38AM 22 Honda, and Harry is in his F150.

09:38AM 23 Q What about Cody?

09:38AM 24 A Cody is in the silver Honda with Johnnie.

09:38AM 25 Q Okay. And before you go over -- do you end up going over

09:38AM 1 to Kualoa?

09:38AM 2 A Yes.

09:38AM 3 Q Before you guys go over there, did you get any information

09:38AM 4 as to whether Lindsey Kinney was there?

09:38AM 5 A Yes.

09:38AM 6 Q How did you get that information?

09:39AM 7 A From Norman.

09:39AM 8 Q Norman?

09:39AM 9 A Yeah, Lindsey was posting videos on Instagram.

09:39AM 10 Q And were some of those videos calling out you and

09:39AM 11 Mr. Miske?

09:39AM 12 A Yes.

09:39AM 13 Q Did Mr. Miske seem happy about those videos?

09:39AM 14 A No.

09:39AM 15 Q What information did -- well, who is Norman?

09:39AM 16 A He was working at the movies, too. He was just -- that's

09:39AM 17 Miller's cousin.

09:39AM 18 Q And he told you that Lindsey was there?

09:39AM 19 A Yes.

09:39AM 20 Q What did you understand was going on at Kualoa Ranch?

09:39AM 21 A They were working movies.

09:39AM 22 Q Working on a set?

09:39AM 23 A Yes.

09:39AM 24 Q And did you -- the three of you, those three cars end up

09:39AM 25 driving over to the set?

09:39AM 1 A Yes.

09:39AM 2 Q How did you guys get access to the set?

09:39AM 3 A We drove through the security.

09:40AM 4 Q Do you recall how you did that?

09:40AM 5 A Mike told them and they let us in.

09:40AM 6 Q As you said before, Mike was affiliated with the movies?

09:40AM 7 A Yes.

09:40AM 8 Q Okay. And where do you guys park?

09:40AM 9 A Well, we drive in and we're kind of parked towards the

09:40AM 10 back facing the trees away from all the other cars.

09:40AM 11 Q Okay. What happens?

09:40AM 12 A Lindsey starts walking over there, and him and Mike are

09:40AM 13 arguing. Mike looks back at me. I get out of the car. I fire

09:40AM 14 a round into the air.

09:40AM 15 Q When he looked back at you, what did you take that to

09:40AM 16 mean?

09:40AM 17 A To get out of the car and do something.

09:40AM 18 Q Did you take that as a signal that you had talked about

09:40AM 19 before?

09:40AM 20 A Yes.

09:40AM 21 Q And that's something that you did you said was something

09:40AM 22 fire a round?

09:41AM 23 A Yes.

09:41AM 24 Q Did you fire in the direction of Mr. Kinney?

09:41AM 25 A I fired into the air.

09:41AM 1 Q Did you intentionally mean to miss him?

09:41AM 2 A Yes.

09:41AM 3 Q When you fired in the air though, was it in the direction  
09:41AM 4 of Mr. Kinney?

09:41AM 5 A Yes.

09:41AM 6 Q What do you recall seeing around the same time in relation  
09:41AM 7 to John Stancil?

09:41AM 8 A John jumped out of the other car masked up with a baton  
09:41AM 9 and a 25.

09:41AM 10 Q And did he have his 25 brandished?

09:41AM 11 A Yes.

09:41AM 12 Q And was he -- did you see him in the point running after  
09:41AM 13 Mr. Kinney?

09:41AM 14 A Yes.

09:41AM 15 Q With the firearm brandished?

09:41AM 16 A Yes.

09:41AM 17 Q Did you see him fire the gun or do you not recall or you  
09:41AM 18 couldn't see it?

09:41AM 19 A I didn't see him fire the gun. I don't recall.

09:41AM 20 THE COURT REPORTER: Sorry. You're talking over each  
09:41AM 21 other.

09:41AM 22 THE WITNESS: I didn't see him fire the gun. I don't  
09:41AM 23 recall.

09:41AM 24 BY MR. NAMMAR:

09:41AM 25 Q Do you think he could have fired the gun?

09:41AM 1 A Um --

09:41AM 2 MR. KENNEDY: Objection, speculation, Your Honor.

09:41AM 3 THE COURT: Sustained.

09:42AM 4 BY MR. NAMMAR:

09:42AM 5 Q You don't know one way or the other whether he fired the  
09:42AM 6 gun?

09:42AM 7 A No.

09:42AM 8 Q So what you did know is he -- you saw him running after  
09:42AM 9 Mr. Kinney with a mask on?

09:42AM 10 A Yes.

09:42AM 11 Q And brandishing the gun that you saw him with. I think  
09:42AM 12 you said it was a 22?

09:42AM 13 A 25.

09:42AM 14 Q 25?

09:42AM 15 A Yes.

09:42AM 16 Q Where does Lindsey Kinney go?

09:42AM 17 A He runs.

09:42AM 18 Q And then what happens at the conclusion of the chase  
09:42AM 19 between John Stancil and Lindsey Kinney?

09:42AM 20 A John turns around and we all jump back in the cars we came  
09:42AM 21 in and we leave.

09:42AM 22 Q What do you guys do with your firearms?

09:42AM 23 A I gave them to Harry Boy.

09:42AM 24 Q And who do you leave with?

09:42AM 25 A With Mike.

09:42AM 1 Q Where do you -- where do you and Mike go?

09:43AM 2 A We went to the parking lot that has Polynesian cultural  
09:43AM 3 center in it.

09:43AM 4 Q And what were you guys doing there?

09:43AM 5 A We hid the car behind the laundry mat and we were just  
09:43AM 6 waiting for Andi to come pick us up.

09:43AM 7 Q Do you recall going into a restaurant there briefly?

09:43AM 8 A Yes.

09:43AM 9 MR. NAMMAR: Your Honor, can we publish 1-698 from the  
09:43AM 10 original list?

09:43AM 11 BY MR. NAMMAR:

09:43AM 12 Q When you initially met with -- well, first of all, do you  
09:43AM 13 recognize this area, Mr. Smith?

09:43AM 14 A Yes.

09:43AM 15 Q When you initially met with --

09:43AM 16 THE COURT: Go ahead. You can publish. Thank you.

09:43AM 17 MR. NAMMAR: Oh, sorry, Your Honor.

09:43AM 18 BY MR. NAMMAR:

09:43AM 19 Q When you initially met with -- the Temple Valley meeting  
09:43AM 20 we talked about --

09:43AM 21 A Yes. Yes.

09:44AM 22 Q -- who was that with?

09:44AM 23 A With Mike.

09:44AM 24 Q Okay. At the Temple Valley shopping center, the first  
09:44AM 25 meeting not at the graveyard, the first meeting at Temple

09:44AM 1 Valley, who was that with?

09:44AM 2 A That was with Norman and I think Zeph was in the car.

09:44AM 3 Q Okay. Where did you guys meet?

09:44AM 4 A We met at the McDonald's parking lot.

09:44AM 5 Q Okay. Can you circle -- do you see it on the map?

09:44AM 6 A Yes.

09:44AM 7 Q Can you circle it? And then you said after that you met

09:44AM 8 at the graveyard?

09:44AM 9 A Yes.

09:44AM 10 Q With Mr. Miske?

09:44AM 11 A Yes.

09:44AM 12 Q Do you see the area of the graveyard where you met?

09:44AM 13 A Yes.

09:44AM 14 Q Can you put an X on that? For the record, you're marking

09:44AM 15 right by the Valley of the Temples memorial.

09:44AM 16 A Yes.

09:44AM 17 MR. NAMMAR: Okay. We can take that down.

09:44AM 18 Your Honor, can -- for the witness only, may we show

09:44AM 19 the witness 1-668 from the original list?

09:45AM 20 THE COURT: It's an admitted exhibit.

09:45AM 21 MR. NAMMAR: Oh, my bad. Can we publish this?

09:45AM 22 THE COURT: Yes.

09:45AM 23 BY MR. NAMMAR:

09:45AM 24 Q Mr. Smith, do you recognize what is shown there?

09:45AM 25 A Yes.

09:45AM 1 Q What is shown here?

09:45AM 2 A That's the area where the shooting happened.

09:45AM 3 Q Okay. And the vehicle, you testified that one -- the

09:45AM 4 first one was -- well, one of the vehicles was a Honda, right?

09:45AM 5 A Yes.

09:45AM 6 Q Do you recall a Lexus being there?

09:45AM 7 A No. It was a Honda.

09:45AM 8 Q Okay. And then you also said that you came with Mr. Miske

09:45AM 9 in a Jeep?

09:45AM 10 A Yes.

09:45AM 11 Q And then there's a black marker that says F150, do you

09:45AM 12 recall an F150 being there?

09:45AM 13 A Yes.

09:45AM 14 Q Who -- who was in the F150?

09:45AM 15 A Harry.

09:45AM 16 Q Is this in the general vicinity the Jeep and the F150

09:45AM 17 where -- where you recall parking?

09:45AM 18 A Yes.

09:45AM 19 Q All right. And using your hand, where do you -- where do

09:46AM 20 you recall that the interaction with Lindsey Kinney and

09:46AM 21 Mr. Miske initially takes place?

09:46AM 22 A It takes place right in front of the vehicle.

09:46AM 23 Q Okay. And where are you when you shoot?

09:46AM 24 A I'm -- I jump out. I walk to this front part right there.

09:46AM 25 Q And about how close are you to Lindsey Kinney when you



09:46AM 1 shoot?

09:46AM 2 A Pretty close, like, closer than me and you are.

09:46AM 3 Q Okay. And which -- which direction does Mr. Kinney run

09:46AM 4 in?

09:46AM 5 A He run towards these -- towards where it says grip truck.

09:46AM 6 Q Where it says grip -- grip truck in the middle?

09:47AM 7 A Yes.

09:47AM 8 Q And is Mr. Stancil following him at that point?

09:47AM 9 A Yes.

09:47AM 10 Q And that's when you said he followed him and had his gun

09:47AM 11 drawn; is that right?

09:47AM 12 A Yes.

09:47AM 13 Q How far do you recall Mr. Stancil following him?

09:47AM 14 A I think just right into the middle of the -- where the

09:47AM 15 grip truck thing is, the middle of those two white spots and

09:47AM 16 then he came back.

09:47AM 17 MR. NAMMAR: Okay. Your Honor, may we publish 1-674?

09:47AM 18 THE COURT: Yes.

09:47AM 19 BY MR. NAMMAR:

09:47AM 20 Q Do you recognize this photo?

09:47AM 21 A Kind of, yes.

09:47AM 22 Q What does it show, if you recognize it?

09:47AM 23 A I think that's the area where Lindsey ran. Oh, no.

09:47AM 24 That's where we were parked.

09:47AM 25 Q What do you think the vicinity -- I'm sorry. I talked

09:48AM 1 over you.

09:48AM 2 A We were facing the trees. We were parked over there.

09:48AM 3 Q Okay. Can you put an area -- put an X in the area where

09:48AM 4 you think you guys were parked? And you mentioned an area

09:48AM 5 where Lindsey Kinney ran to. Do you see that area where he ran

09:48AM 6 to?

09:48AM 7 A It looks like where the picture is taken from that's where

09:48AM 8 he kind of ran to. Back towards.

09:48AM 9 Q In the -- in the vicinity of the white looks like Tundra

09:48AM 10 truck?

09:48AM 11 A Yes.

09:48AM 12 MR. NAMMAR: Okay. We can take that down.

09:48AM 13 BY MR. NAMMAR:

09:48AM 14 Q So following this event at Kualoa, were there a lot of

09:48AM 15 additional postings by Lindsey Kinney?

09:48AM 16 A Yes.

09:48AM 17 Q On social media?

09:48AM 18 A Yes.

09:48AM 19 Q Did you see some of those?

09:48AM 20 A Yes.

09:48AM 21 Q What was Mr. Kinney's demeanor in some of those posts?

09:49AM 22 A He was acting crazy.

09:49AM 23 Q He was mad?

09:49AM 24 A Yes.

09:49AM 25 Q He was yelling?

09:49AM 1 A Yes.

09:49AM 2 Q Yelling about you?

09:49AM 3 A Yes.

09:49AM 4 Q Yelling about Mr. Miske?

09:49AM 5 A Yes.

09:49AM 6 Q Yelling about Johnnie Stancil?

09:49AM 7 A Yes.

09:49AM 8 MR. NAMMAR: Can we show the witness only 1-694?

09:49AM 9 THE COURT: Go ahead.

09:49AM 10 BY MR. NAMMAR:

09:49AM 11 Q Do you recognize this photo?

09:49AM 12 A Yes.

09:49AM 13 Q What's this photo of?

09:49AM 14 A That's the restaurant we walked into after we hid the Jeep

09:49AM 15 behind the laundry mat at PCC.

09:49AM 16 MR. NAMMAR: Can we show the witness now 1-695?

09:49AM 17 THE COURT: Go ahead.

09:49AM 18 BY MR. NAMMAR:

09:49AM 19 Q Do you recognize this photo?

09:49AM 20 A Yes.

09:49AM 21 Q What is -- what's shown here?

09:50AM 22 A Me and Mike.

09:50AM 23 Q Is this at the same place as the one we just looked at?

09:50AM 24 A Yes.

09:50AM 25 MR. NAMMAR: Your Honor, I move to admit 1-694 and

09:50AM 1 1-695.

09:50AM 2 THE COURT: Any objection to either of those two

09:50AM 3 exhibits?

09:50AM 4 MR. KENNEDY: No objection.

09:50AM 5 THE COURT: Without objection those two exhibits then

09:50AM 6 are admitted. That's 1-694 and 1-695. You may publish.

09:50AM 7 MR. NAMMAR: Thank you. Start with 694.

09:50AM 8 (Exhibits 1-694 and 1-695 were received in evidence.)

09:50AM 9 BY MR. NAMMAR:

09:50AM 10 Q Mr. Smith, the jury can see this now. Can you tell them

09:50AM 11 what we're looking at?

09:50AM 12 A This is a picture of us at the restaurant we went to wait

09:50AM 13 in after we hid the Jeep at Polynesian Cultural Center.

09:50AM 14 Q Why did you guys hide the Jeep?

09:50AM 15 A Because that's what we drove to Kualoa in.

09:50AM 16 Q Who were you guys waiting for?

09:50AM 17 A Andi.

09:50AM 18 Q Who is in this photo?

09:50AM 19 A Me and Mike.

09:50AM 20 Q And which one are you, what shirt, what color shirt?

09:51AM 21 A I'm in the black shirt. Mike's in the white in the front.

09:51AM 22 MR. NAMMAR: May we publish 1-695?

09:51AM 23 THE COURT: Yes.

09:51AM 24 BY MR. NAMMAR:

09:51AM 25 Q What's shown here?

09:51AM 1 A Another picture of us at the same place.

09:51AM 2 MR. NAMMAR: We can take that down.

09:51AM 3 Can we show the witness only 1-683 and 1-684 now?

09:51AM 4 THE COURT: Go ahead.

09:51AM 5 MR. NAMMAR: Thank you.

09:51AM 6 BY MR. NAMMAR:

09:51AM 7 Q Do you recognize the person shown here?

09:51AM 8 A Yes.

09:51AM 9 Q Do you recognize this -- what is shown here?

09:51AM 10 A A picture of Lindsey Kinney.

09:51AM 11 Q Is this a social media post that he made?

09:51AM 12 A Yes.

09:51AM 13 Q Do you recall him making a social media post similar to

09:51AM 14 this after the shooting?

09:51AM 15 A Yes.

09:52AM 16 MR. NAMMAR: Can we also show the witness 1-684?

09:52AM 17 BY MR. NAMMAR:

09:52AM 18 Q What is this?

09:52AM 19 A Another picture of Lindsey Kinney.

09:52AM 20 Q Does this also appear to you to be a social media post?

09:52AM 21 A Yes.

09:52AM 22 MR. NAMMAR: Your Honor, I move to admit 1-683 and

09:52AM 23 1-684.

09:52AM 24 THE COURT: Mr. Kennedy, any objection?

09:52AM 25 MR. KENNEDY: No objection.

09:52AM 1 THE COURT: Those two exhibits then are admitted  
09:52AM 2 without objection. That's 1-683 and 684. You may publish.  
09:52AM 3 MR. NAMMAR: Thank you.  
09:52AM 4 (Exhibits 1-683 and 1-684 were received in evidence.)  
09:52AM 5 BY MR. NAMMAR:  
09:52AM 6 Q The jury can see it now. What is shown here?  
09:52AM 7 A A picture of Lindsey Kinney.  
09:52AM 8 Q Ask do you believe this to be a screen grab from a social  
09:52AM 9 media post?  
09:52AM 10 A Yes.  
09:52AM 11 Q Did you see some of the social media posts that he was  
09:52AM 12 making after the shooting?  
09:52AM 13 A Yes.  
09:52AM 14 Q And are those the ones that you testified to about --  
09:52AM 15 A Yes.  
09:52AM 16 Q -- previously?  
09:53AM 17 MR. NAMMAR: Can we show 1-684?  
09:53AM 18 BY MR. NAMMAR:  
09:53AM 19 Q What is shown here?  
09:53AM 20 A Another social media post of Lindsey.  
09:53AM 21 MR. NAMMAR: We can take that down.  
09:53AM 22 BY MR. NAMMAR:  
09:53AM 23 Q You said you went to that restaurant. We saw the photos  
09:53AM 24 of that with Mr. Miske. Where do you go from there?  
09:53AM 25 A We end up going to north shore and meet Harry and Johnnie

09:53AM 1 and me and Johnnie go stay at Turtle Bay.

09:53AM 2 Q How do you get to the north shore?

09:53AM 3 A Mike them dropped me off.

09:53AM 4 Q Who is Mike and them?

09:53AM 5 A Mike and Andi.

09:53AM 6 Q And then does he give you anything when he drops you off?

09:53AM 7 A He just give us money for a hotel room that night.

09:53AM 8 Q Did he tell you to stay in a hotel room that night?

09:54AM 9 A He just told us to lay low.

09:54AM 10 Q Lay low?

09:54AM 11 A Yeah.

09:54AM 12 Q Is that why you stayed in a hotel?

09:54AM 13 A Yes.

09:54AM 14 Q You and Johnnie?

09:54AM 15 A Yes.

09:54AM 16 Q Do you recall how you book that room?

09:54AM 17 A Through Keoni Adric.

09:54AM 18 Q Why did you use Keoni Adric?

09:54AM 19 A Because he's from that side, he was already out there.

09:54AM 20 Q And who paid for the room, if you recall?

09:54AM 21 A Mike gave us the money but we gave it to Keoni to get us

09:54AM 22 the room.

09:54AM 23 Q Okay.

09:54AM 24 MR. NAMMAR: Can we show the witness only 1-901 from

09:54AM 25 the original list?

09:54AM 1 THE COURT: Go ahead.

09:54AM 2 BY MR. NAMMAR:

09:54AM 3 Q Second page. Do you recognize the name on here?

09:54AM 4 A Yes.

09:54AM 5 Q Is this the -- the hotel that you recall staying after the  
09:54AM 6 shooting?

09:54AM 7 A Yes.

09:54AM 8 Q And it lists a date of 5/23. Is that the date that you  
09:55AM 9 recall?

09:55AM 10 A Yes.

09:55AM 11 Q Staying at this hotel?

09:55AM 12 MR. NAMMAR: Your Honor, I move to admit 1-901 at this  
09:55AM 13 time which is accompanied by 803 cert on page one or the last  
09:55AM 14 page. Sorry.

09:55AM 15 THE COURT: Any objection to this exhibit?

09:55AM 16 MR. KENNEDY: No objection.

09:55AM 17 THE COURT: 1-901 is admitted without objection. You  
09:55AM 18 may publish.

09:55AM 19 MR. NAMMAR: Thank you.

09:55AM 20 (Exhibit 1-901 was received in evidence.)

09:55AM 21 BY MR. NAMMAR:

09:55AM 22 Q The jury can see it. Turtle Bay, is that where you recall  
09:55AM 23 staying that night?

09:55AM 24 A Yes.

09:55AM 25 Q And you said -- well, Keoni Adric, do you recognize that



09:55AM 1 name?

09:55AM 2 A Yes.

09:55AM 3 Q Who is that?

09:55AM 4 A He was cruising with us at the time. He was hanging out  
09:55AM 5 with us at the time.

09:55AM 6 Q And you said he booked the hotel for you?

09:55AM 7 A Yes.

09:55AM 8 Q And this shows a arrival date of May 23rd and departure of  
09:55AM 9 the 24th. Do you recall it being one night that you stayed  
09:55AM 10 there with Johnnie?

09:55AM 11 A Yes.

09:55AM 12 MR. NAMMAR: We can take that down.

09:55AM 13 BY MR. NAMMAR:

09:56AM 14 Q Following the shooting, did you eventually get your guns  
09:56AM 15 back?

09:56AM 16 A Yes.

09:56AM 17 Q Your gun back? Excuse me.

09:56AM 18 A Yes.

09:56AM 19 Q When did you get your gun back?

09:56AM 20 A I went and grabbed it back from Harry after.

09:56AM 21 Q Okay. That's Harry Kauhi?

09:56AM 22 A Yes.

09:56AM 23 Q Following the shooting, did you and Mr. Miske and John  
09:56AM 24 Stancil have a long feud with Lindsey Kinney?

09:56AM 25 A Yes.

09:56AM 1 Q Did he continue to make a lot of social media posts?

09:56AM 2 A Yes.

09:56AM 3 Q Were you frustrated by those posts?

09:56AM 4 A Yes.

09:56AM 5 Q Was Mr. Miske frustrated by those posts?

09:56AM 6 A Yes.

09:56AM 7 Q Did you have a conversation with Mr. Miske where he talked

09:56AM 8 about the fact that you missed Lindsey Kinney at some point?

09:56AM 9 A Yes.

09:56AM 10 Q Missed him as far as shooting him at Kualoa Ranch?

09:56AM 11 A Yes.

09:56AM 12 Q What did Mr. Miske say?

09:56AM 13 A We were stressing out over the videos, and he said I would

09:57AM 14 have been better off hitting him.

09:57AM 15 Q If you hit him?

09:57AM 16 A Yes.

09:57AM 17 Q With a bullet?

09:57AM 18 A Yes.

09:57AM 19 Q Was there a period in time where you recall that Miske was

09:57AM 20 furious with Lindsey Kinney's posts?

09:57AM 21 A Yes.

09:57AM 22 Q Did he tell you that he took it as an affront to his

09:57AM 23 reputation?

09:57AM 24 A Yes.

09:57AM 25 Q At some point, did he ask you to help kill Lindsey Kinney?

09:57AM 1 A Yes.

09:57AM 2 Q What did he tell you about that?

09:57AM 3 A He said if we knew anybody that would be down to do it.

09:57AM 4 Q That you -- go ahead.

09:57AM 5 A He -- he just was asking us if we knew anybody that we  
09:57AM 6 could get to do it.

09:57AM 7 Q When you say "us," who was he talking about?

09:57AM 8 A Me and John.

09:57AM 9 Q So he asked you to find -- you and Johnnie to find someone  
09:57AM 10 to kill Lindsey Kinney?

09:57AM 11 A Yes.

09:57AM 12 Q Did he give you a vehicle that could be used for that?

09:57AM 13 A Yes.

09:57AM 14 Q What kind of vehicle?

09:57AM 15 A He gave us a Dodge Caravan.

09:58AM 16 Q And did he talk to you about ways that you guys could get  
09:58AM 17 it done?

09:58AM 18 A He told us to duct tape everything, wear hoodies, mask,  
09:58AM 19 cover every -- cover everything up and have two cars.

09:58AM 20 Q Have two cars?

09:58AM 21 A Yes.

09:58AM 22 Q Did he talk to you about a place called E Komo Mai?

09:58AM 23 A He told us that he was there one night.

09:58AM 24 Q Lindsey Kinney?

09:58AM 25 A Yes.

09:58AM 1 Q Did he tell you you should go do it there that one night?

09:58AM 2 A Yes.

09:58AM 3 Q Is there a time when you and Johnnie drove around in the

09:58AM 4 Dodge Caravan with -- looking for Lindsey Kinney?

09:58AM 5 A We drove around. We were looking for him but we weren't

09:58AM 6 really planning on doing anything.

09:58AM 7 Q You weren't -- you weren't planning on killing him?

09:58AM 8 A No.

09:58AM 9 Q But did you want to drive around to show Mr. Miske that

09:59AM 10 you were working towards something?

09:59AM 11 A Yes.

09:59AM 12 Q Did you ever find anyone to kill Lindsey Kinney?

09:59AM 13 A No.

09:59AM 14 Q Do you recall at some point that Mr. Miske told you with

09:59AM 15 respect to Lindsey Kinney that he was looking weak?

09:59AM 16 A Yes.

09:59AM 17 Q What did he say about that?

09:59AM 18 A He said, "Because we weren't doing anything, it was making

09:59AM 19 him look bad that Lindsey was posting all the videos and

09:59AM 20 nothing was happening."

09:59AM 21 Q Is there a point in time where during a lot of these posts

09:59AM 22 that you were hanging out at Norman Akau's house?

09:59AM 23 A Yes.

09:59AM 24 Q And would you sometimes see Wayne Miller over there as

09:59AM 25 well?

09:59AM 1 A Yes.

09:59AM 2 Q Did you have a conversation with Wayne Miller at Norman

10:00AM 3 Akau's house about Lindsey Kinney?

10:00AM 4 A Yes.

10:00AM 5 Q What did he tell you?

10:00AM 6 MR. KENNEDY: Objection on relevance, Your Honor.

10:00AM 7 THE COURT: Offer of proof.

10:00AM 8 MR. NAMMAR: He's going to talk about the killing of

10:00AM 9 Lindsey Kinney. That's the offer of proof.

10:00AM 10 THE COURT: Overruled.

10:00AM 11 Go ahead.

10:00AM 12 THE WITNESS: He was just saying that Mike wanted

10:00AM 13 Lindsey to get killed and it was crazy because there was so

10:00AM 14 many eyes on us already at that time.

10:00AM 15 BY MR. NAMMAR:

10:00AM 16 Q So Mr. Miske said that -- excuse me, strike that. Let me

10:00AM 17 rephrase that.

10:00AM 18 Mr. Miller said that Mike Miske wanted Lindsey Kinney

10:00AM 19 killed?

10:00AM 20 A Yes.

10:00AM 21 Q What did he say about that?

10:00AM 22 A He said, "It was crazy because there was so many eyes

10:00AM 23 around us, feds around already."

10:00AM 24 Q A lot of law enforcement?

10:00AM 25 A Yes.

10:00AM 1 Q Did Mr. Miller say anything in that conversation about  
10:00AM 2 what Mr. Miske was saying about you and Johnnie and the task to  
10:01AM 3 kill Lindsey Kinney?

10:01AM 4 A He -- he asked us if we were trying to do it one night,  
10:01AM 5 but I kind of told him no, he just told us that there was a lot  
10:01AM 6 of -- like to be careful because there was a lot of eyes  
10:01AM 7 watching.

10:01AM 8 Q Did Mr. Miske ever seem frustrated with you that you  
10:01AM 9 didn't go through with the killing of Lindsey Kinney?

10:01AM 10 A Sometimes.

10:01AM 11 Q What would he say?

10:01AM 12 A Just -- he would just try to egg us on and make like we  
10:01AM 13 weren't capable of doing it.

10:01AM 14 Q Would you see him egg Mr. Stancil on a lot when he didn't  
10:01AM 15 go through with certain criminal acts?

10:01AM 16 A Yes.

10:01AM 17 Q Would he sometimes use family pressure?

10:01AM 18 A Yes.

10:01AM 19 Q How would he do that?

10:01AM 20 A He would just make Johnnie feel bad or down Johnnie all  
10:02AM 21 the time so Johnnie would try to impress him.

10:02AM 22 Q Turning this feud with -- between you, Mr. Miske, John  
10:02AM 23 Stancil and Mr. Kinney, did the person named Dallas Limahai  
10:02AM 24 ever come up?

10:02AM 25 A Yes.

10:02AM 1 Q Who is Dallas Limahai?

10:02AM 2 A I don't really know who he is. I just know he was talking  
10:02AM 3 to Lindsey Kinney and stirring up a lot of trouble.

10:02AM 4 Q How was he stirring up trouble?

10:02AM 5 A He was spreading rumors and just saying stuff that wasn't  
10:02AM 6 really true.

10:02AM 7 Q Where was he saying those things?

10:02AM 8 A To Lindsey Kinney and we heard he was talking to -- to law  
10:02AM 9 enforcement.

10:02AM 10 Q And did Mr. Miske give you any instructions with respect  
10:02AM 11 to Dallas Limahai?

10:02AM 12 A He told me if I seen him to assault him.

10:02AM 13 Q And did you have a run-in one night with Dallas Limahai?

10:02AM 14 A We seen him out one night.

10:03AM 15 Q Where did you see him out one night?

10:03AM 16 A At the Payless Shoes parking lot by District.

10:03AM 17 Q By the District Nightclub?

10:03AM 18 A Yes.

10:03AM 19 Q Who were you with?

10:03AM 20 A With Johnnie.

10:03AM 21 Q What happened?

10:03AM 22 A I think Johnnie got out and talked to him. He was asking  
10:03AM 23 him why he was saying all this stuff he was saying. I'm not  
10:03AM 24 sure if he got slapped or not.

10:03AM 25 Q Moving to 2018, did the feud with Mr. Kinney continue?

10:03AM 1 A Yes.

10:03AM 2 Q In 2018, were you using a platform called WhatsApp?

10:03AM 3 A Yes.

10:03AM 4 Q Can you tell the jury what WhatsApp is?

10:03AM 5 A WhatsApp was how we communicated because Mike said we  
10:03AM 6 couldn't be traced like that.

10:03AM 7 Q Mike told you you couldn't be traced?

10:03AM 8 A Yes.

10:03AM 9 Q Traced by who?

10:03AM 10 A By law enforcement.

10:03AM 11 Q And how -- how did that work?

10:03AM 12 A We downloaded an app on our phones and we just texted each  
10:04AM 13 other through the app instead of the actual text.

10:04AM 14 Q So would you -- do you recall talking during some of those  
10:04AM 15 conversations with Mr. Miske on WhatsApp about Dallas Limahai?

10:04AM 16 A I think so, yes.

10:04AM 17 Q Did you -- do you recall in 2018 assaulting one of Lindsey  
10:04AM 18 Kinney's associates or friends over a video?

10:04AM 19 A Yes.

10:04AM 20 Q Did Mr. Miske have a habit or pattern of asking you to  
10:04AM 21 video things?

10:04AM 22 A If we were -- there was certain assaults that he wanted  
10:04AM 23 videos of. He would like to see them.

10:04AM 24 Q He would ask you to video it?

10:04AM 25 A Yes.



10:04AM 1 Q And did you have someone video the assault of Lindsey  
10:04AM 2 Kinney's friend?  
10:04AM 3 A Yes.  
10:04AM 4 Q Who was the friend?  
10:04AM 5 A Taylor Martin.  
10:04AM 6 Q Where did you assault him?  
10:04AM 7 A Outside of the bar in Kaneohe.  
10:04AM 8 Q Which bar?  
10:05AM 9 A The Corner.  
10:05AM 10 Q And after you did that, did you send a video of it to  
10:05AM 11 Mr. Miske?  
10:05AM 12 A Yes.  
10:05AM 13 Q Did you send a video of it over WhatsApp to Mr. Miske?  
10:05AM 14 A Yes.  
10:05AM 15 Q Did you want to show him that you were moving forward with  
10:05AM 16 his direction of harming Lindsey Kinney and friends?  
10:05AM 17 A Yes.  
10:05AM 18 MR. NAMMAR: Your Honor, can we show the witness only  
10:05AM 19 a video which is 1-581 from the original list?  
10:05AM 20 THE COURT: This one has no audio.  
10:05AM 21 MR. NAMMAR: I think it has audio but we don't need  
10:05AM 22 the audio.  
10:05AM 23 THE COURT: All right. Please make sure it's off as  
10:05AM 24 you show it to the witness. Go ahead.  
10:06AM 25 MR. NAMMAR: Thank you.

10:06AM 1 (Video was played.)

10:06AM 2 BY MR. NAMMAR:

10:06AM 3 Q Do you recognize the video that was just played?

10:06AM 4 A Yes.

10:06AM 5 Q What is it of?

10:06AM 6 A Me punching Lindsey's friend.

10:06AM 7 Q Mr. Martin?

10:06AM 8 A Yes.

10:06AM 9 Q The one you just talked about?

10:06AM 10 A Yes.

10:06AM 11 Q Is this the video that you sent to Mr. Miske over

10:06AM 12 WhatsApp?

10:06AM 13 A Yes.

10:06AM 14 MR. NAMMAR: Your Honor, I move to admit 1-581.

10:06AM 15 THE COURT: Any objection?

10:06AM 16 MR. KENNEDY: No objection.

10:06AM 17 THE COURT: 1-581 is admitted without objection.

10:06AM 18 You may play it for the jury.

10:06AM 19 (Exhibit 1-581 was received in evidence.)

10:06AM 20 MR. NAMMAR: Thank you.

10:06AM 21 We don't need the sound.

10:06AM 22 BY MR. NAMMAR:

10:06AM 23 Q Who is doing the punching in this video?

10:06AM 24 A Me.

10:06AM 25 Q And were there other videos that went along with this?

10:07AM 1 A I'm not sure, maybe.

10:07AM 2 Q Did they still go on for longer than this?

10:07AM 3 A Yes, a little bit.

10:07AM 4 MR. NAMMAR: Can we show the witness only 1-963 from  
10:07AM 5 the original list, Your Honor?

10:07AM 6 THE COURT: 1-963, go ahead.

10:07AM 7 MR. NAMMAR: Yes. And if we could zoom in on -- for  
10:08AM 8 the witness. We could go to the second page. And zoom in on  
10:08AM 9 the user name here.

10:08AM 10 BY MR. NAMMAR:

10:08AM 11 Q Do you recognize the user name here?

10:08AM 12 A Yes.

10:08AM 13 Q Is that one of the email accounts that you utilized?

10:08AM 14 A Yes.

10:08AM 15 MR. NAMMAR: Your Honor, I move to admit 1-963.

10:08AM 16 THE COURT: Any objection?

10:08AM 17 MR. KENNEDY: No objection.

10:08AM 18 THE COURT: 1-963 is admitted then. You may publish.

10:08AM 19 (Exhibit 1-963 was received in evidence.)

10:08AM 20 MR. NAMMAR: Thank you.

10:08AM 21 We can go to the first page.

10:08AM 22 BY MR. NAMMAR:

10:08AM 23 Q This is another preliminary device report for a different  
10:08AM 24 device. If we go to page two and zoom in on the account,  
10:08AM 25 that's an email eastside1993 that you recall using?

10:08AM 1 A Yes.

10:08AM 2 MR. NAMMAR: Can we go now to show the witness only

10:09AM 3 1-966? And we could zoom in on the first one.

10:09AM 4 BY MR. NAMMAR:

10:09AM 5 Q Do you recognize the house that's a little hard to see?

10:09AM 6 It's a thumbnail but it's shown there in the thumbnail on the

10:09AM 7 right?

10:09AM 8 A Yes.

10:09AM 9 Q Whose house is that?

10:09AM 10 A Mike's house.

10:09AM 11 Q And did you go over there at one point in -- in or around

10:09AM 12 2017?

10:09AM 13 A I went there once.

10:09AM 14 Q Did you take a video when you went over there?

10:09AM 15 A Yes.

10:09AM 16 Q And if we zoom out just below that, it lists a lot of

10:09AM 17 dates in 2017 for the videos that are on here. Do you -- is it

10:09AM 18 your recollection that the videos that you took at Mr. Miske's

10:09AM 19 house would have happened in or around 2017?

10:09AM 20 A Yes.

10:10AM 21 MR. NAMMAR: Your Honor, I move to admit this time

10:10AM 22 line 1-966.

10:10AM 23 THE COURT: Any objection?

10:10AM 24 MR. NAMMAR: No objection.

10:10AM 25 THE COURT: 1-966 is admitted then without objection.

10:10AM 1 You may publish.

10:10AM 2 MR. NAMMAR: Thank you.

10:10AM 3 (Exhibit 1-966 was received in evidence.)

10:10AM 4 MR. NAMMAR: And so just for the jury, where we -- if

10:10AM 5 you could zoom in on the first thumbnail.

10:10AM 6 BY MR. NAMMAR:

10:10AM 7 Q You were saying you think this is from Mr. Miske's house?

10:10AM 8 A Yes.

10:10AM 9 Q Where was that house located?

10:10AM 10 A Portlock.

10:10AM 11 Q Can you tell us about that house?

10:10AM 12 A It was a nice house. It was just a really big house. I

10:10AM 13 think that was his new house.

10:10AM 14 Q And was it being built when you went over to it?

10:10AM 15 A Yes.

10:10AM 16 MR. NAMMAR: And if we zoom out and then just zoom in

10:10AM 17 right here.

10:10AM 18 BY MR. NAMMAR:

10:10AM 19 Q Does this list a modified date in October of 2017?

10:10AM 20 A Yes.

10:11AM 21 MR. NAMMAR: Can we show -- you can take that down.

10:11AM 22 Can we show the witness only now 1-966A as in alpha.

10:11AM 23 It's a video. We don't need sound.

10:11AM 24 THE COURT: Where would this be?

10:11AM 25 MR. NAMMAR: Oh, I'm sorry. It's on the 13th

10:11AM 1 supplemental list.

10:11AM 2 THE COURT: I've got it. Go ahead.

10:11AM 3 BY MR. NAMMAR:

10:11AM 4 Q Mr. Smith, do you -- do you recognize that video?

10:11AM 5 A Yes.

10:11AM 6 Q What is it of?

10:11AM 7 A The Hawaii Kai house.

10:11AM 8 Q And you believe you took that video?

10:11AM 9 A Yes.

10:11AM 10 MR. NAMMAR: Your Honor, I move to admit 1-966A.

10:12AM 11 THE COURT: Any objection?

10:12AM 12 MR. KENNEDY: No objection.

10:12AM 13 THE COURT: 1-966 alpha is admitted. You may play it.

10:12AM 14 (Exhibit 1996A was received in evidence.)

10:12AM 15 MR. NAMMAR: Thank you.

10:12AM 16 We can go ahead and play it.

10:12AM 17 (Video was played.)

10:12AM 18 BY MR. NAMMAR:

10:12AM 19 Q What did we just look at?

10:12AM 20 A The Portlock house.

10:12AM 21 Q And the person that was walking and -- are you filming  
10:12AM 22 this while you're walking?

10:12AM 23 A Yes.

10:12AM 24 Q With your phone?

10:12AM 25 A Yes.

10:12AM 1 Q The person that was walking in front of you, who was that?

10:12AM 2 A Johnnie.

10:12AM 3 Q And we're looking at a vehicle on the bottom left here.

10:12AM 4 Do you recognize that vehicle?

10:12AM 5 A Yes.

10:12AM 6 Q What vehicle is that?

10:12AM 7 A That was Mike's truck.

10:12AM 8 Q What kind of truck was that?

10:12AM 9 A GMC.

10:12AM 10 Q Black in color?

10:12AM 11 A Yes.

10:12AM 12 Q Do you recall him driving that in or around 2017?

10:13AM 13 A Yes.

10:13AM 14 MR. NAMMAR: Your Honor, may we show the witness only

10:13AM 15 now -- we don't need sound for this one either -- 1-966D as in

10:13AM 16 delta from the 13th list.

10:13AM 17 THE COURT: Go ahead.

10:13AM 18 BY MR. NAMMAR:

10:13AM 19 Q Do you recognize this video?

10:13AM 20 A Yes.

10:13AM 21 Q What is shown here?

10:13AM 22 A The garage, the Hawaii Kai house.

10:13AM 23 Q At the house we just looked at?

10:13AM 24 A Yes.

10:13AM 25 Q Do you recognize the person that's in this video the first

10:13AM 1 person?

10:13AM 2 A Yes.

10:13AM 3 Q Who is that?

10:13AM 4 A That's Mike.

10:13AM 5 MR. NAMMAR: Your Honor, I move to admit 1-966D.

10:13AM 6 THE COURT: Any objection?

10:13AM 7 MR. KENNEDY: No objection.

10:13AM 8 THE COURT: 1-966D as in delta is admitted. You may  
10:13AM 9 play.

10:13AM 10 (Exhibit 1-966D was received in evidence.)

10:13AM 11 MR. NAMMAR: Before we play it, if we can publish it  
10:13AM 12 real quick?

10:13AM 13 BY MR. NAMMAR:

10:13AM 14 Q Do you recognize the hood of the car that's shown here?

10:13AM 15 A Yes.

10:13AM 16 Q What kind of a car was that?

10:13AM 17 A A Ferrari.

10:13AM 18 Q Whose car was that?

10:14AM 19 A Mike's.

10:14AM 20 Q Do you recall what color it was?

10:14AM 21 A It was like champagne.

10:14AM 22 Q A champagne color?

10:14AM 23 A Yes.

10:14AM 24 MR. NAMMAR: And if we can play it now.

10:14AM 25 BY MR. NAMMAR:



10:14AM 1 Q Who's the person that was in the white T-shirt?

10:14AM 2 A Mike.

10:14AM 3 Q And did you film this at his house?

10:14AM 4 A Yes.

10:14AM 5 Q You said you went there once?

10:14AM 6 A Yes.

10:14AM 7 Q Was it totally finished when you were there?

10:14AM 8 A No.

10:14AM 9 Q What -- what needed to be done, if you recall?

10:14AM 10 A There was still a lot of work going on inside the house.

10:14AM 11 Q Okay. Did you ever lay any tile over there?

10:14AM 12 A No.

10:14AM 13 MR. NAMMAR: We can take that down.

10:14AM 14 BY MR. NAMMAR:

10:14AM 15 Q Do you know somebody by the name of Dayson Kaae?

10:14AM 16 A Yes.

10:14AM 17 Q How do you know that person?

10:14AM 18 A He was a friend of mine.

10:15AM 19 Q And is he someone that you also provided with -- turning

10:15AM 20 to October of 2017, is he somebody that you provided

10:15AM 21 methamphetamine to sell?

10:15AM 22 A Yes.

10:15AM 23 Q Can you tell the jury what the term "fronted" means?

10:15AM 24 A When you front somebody dope, it's like you're giving it

10:15AM 25 to them to sell without them paying it.

10:15AM 1 Q And so then they have a balance with you?

10:15AM 2 A Yes.

10:15AM 3 Q And did you do that with Mr. Kaae?

10:15AM 4 A Yes.

10:15AM 5 Q And was he able to not pay you back timely?

10:15AM 6 A Yes.

10:15AM 7 Q And when he didn't pay you back timely, did you ask him to

10:15AM 8 rob a game room?

10:15AM 9 A Yes.

10:15AM 10 Q Tell us about that.

10:15AM 11 A He owed me money and he didn't know how he was going to

10:15AM 12 pay it. And me and Lance have whacked game rooms before, and I

10:16AM 13 told Dayson to go inside and whack the game room, to rob the

10:16AM 14 game room.

10:16AM 15 Q Which game room did he do?

10:16AM 16 A I think it was Palama across Don Quixote in town.

10:16AM 17 Q And did you give him anything -- any items before he went

10:16AM 18 into the game room?

10:16AM 19 A Yes.

10:16AM 20 Q What did you give him?

10:16AM 21 A I gave him a gun.

10:16AM 22 Q Did that robbery go well?

10:16AM 23 A Yes.

10:16AM 24 Q Where were you sitting when the robbery was taking place?

10:16AM 25 A I was sitting in Frankie's car across the street.

10:16AM 1 Q Watching it go down?

10:16AM 2 A Yes.

10:16AM 3 Q Did he eventually get arrested that night?

10:16AM 4 A Yes.

10:16AM 5 Q Why?

10:16AM 6 A Because he got caught robbing the game room.

10:16AM 7 Q So he didn't go through with it?

10:16AM 8 A He didn't get it done, no.

10:16AM 9 Q And was the gun that you gave him do you understand it was  
10:17AM 10 seized?

10:17AM 11 A Yes.

10:17AM 12 MR. NAMMAR: Your Honor, if we could show the witness  
10:17AM 13 only 1-77 -- excuse me, 1-711?

10:17AM 14 THE COURT: All right.

10:17AM 15 BY MR. NAMMAR:

10:17AM 16 Q Mr. Smith, do you recognize what is shown here?

10:17AM 17 A Yes.

10:17AM 18 Q What is shown here?

10:17AM 19 A The game room where Days tried to rob it.

10:17AM 20 Q Is this the Palama game room?

10:17AM 21 A Yes.

10:17AM 22 MR. NAMMAR: Your Honor, I move to admit 1-711.

10:17AM 23 THE COURT: Any objection?

10:17AM 24 MR. KENNEDY: No objection.

10:17AM 25 THE COURT: 1-711 is admitted without objection. You

10:17AM 1 may publish.

10:17AM 2 MR. NAMMAR: Thank you.

10:17AM 3 (Exhibit 1-711 was received in evidence.)

10:17AM 4 BY MR. NAMMAR:

10:17AM 5 Q It's on the screen now, Mr. Smith, the jury can see it.

10:17AM 6 This is the Palama game room?

10:17AM 7 A Yes.

10:17AM 8 Q Where is the game room?

10:17AM 9 A Upstairs where the police are walking.

10:17AM 10 Q Where were you seated when Mr. -- where were you

10:17AM 11 positioned when Mr. Kaae went in?

10:17AM 12 A Across the street at the shopping center.

10:18AM 13 MR. NAMMAR: Can we show the witness only 1-713?

10:18AM 14 THE COURT: Go ahead.

10:18AM 15 BY MR. NAMMAR:

10:18AM 16 Q Do you recognize what is shown here?

10:18AM 17 A Yes.

10:18AM 18 Q What is shown here?

10:18AM 19 A The gun I gave him that night.

10:18AM 20 Q The gun that you understood was taken by the police after

10:18AM 21 the robbery?

10:18AM 22 A Yes.

10:18AM 23 MR. NAMMAR: Your Honor, I move to admit 1-713.

10:18AM 24 THE COURT: Any objection to that?

10:18AM 25 MR. KENNEDY: No objection.

10:18AM 1 THE COURT: 1-713 is admitted. You may show it to the  
10:18AM 2 jury.

10:18AM 3 (Exhibit 1-713 was received in evidence.)

10:18AM 4 BY MR. NAMMAR:

10:18AM 5 Q What are we looking at here?

10:18AM 6 A The gun that I gave him to use at the game room that  
10:18AM 7 night.

10:18AM 8 Q What kind of a gun was that?

10:18AM 9 A Remington RP7.

10:18AM 10 MR. NAMMAR: We can take that down.

10:18AM 11 BY MR. NAMMAR:

10:18AM 12 Q Is your recollection that that was in October of 2017?

10:19AM 13 A It could have been, yes.

10:19AM 14 Q Okay. Moving to November of 2017, do you recall an  
10:19AM 15 occasion where you and Dayson Kaae were in a stolen Mercedes?

10:19AM 16 A Yes.

10:19AM 17 Q And what do you recall being in the trunk?

10:19AM 18 A Another gun.

10:19AM 19 Q What kind of gun?

10:19AM 20 A Street sweeper.

10:19AM 21 Q Where did you get that street sweeper from?

10:19AM 22 A From Dusky Boy.

10:19AM 23 Q Can you describe the street sweeper?

10:19AM 24 A It was a shotgun with a drum on it.

10:19AM 25 Q Who is Dusky Boy?

10:19AM 1 A One of our other friends.

10:19AM 2 Q Where did he live?

10:19AM 3 A North shore.

10:19AM 4 Q Did you know whether Dusky Boy was close with Wayne

10:19AM 5 Miller?

10:19AM 6 A Yes.

10:19AM 7 Q Was he close with Wayne Miller?

10:19AM 8 A Yes.

10:19AM 9 Q Did you ever fire that street sweeper?

10:19AM 10 A No.

10:19AM 11 Q So in November 2017, do you recall being at a barber shop?

10:19AM 12 A Yes.

10:20AM 13 Q Where was it located?

10:20AM 14 A It was in the trunk.

10:20AM 15 Q It was where?

10:20AM 16 A The barber shop we were at was like right at the top of

10:20AM 17 Queen Street.

10:20AM 18 Q In Kaka'ako?

10:20AM 19 A Yes.

10:20AM 20 Q And what -- what happened when you were at that barber

10:20AM 21 shop with respect to the Mercedes?

10:20AM 22 A The police were called because it was a stolen Mercedes.

10:20AM 23 Q And were you -- did you have an encounter with the police?

10:20AM 24 A Yes.

10:20AM 25 Q What happened?

10:20AM 1 A When I came out of the shop, they tried to arrest me and  
10:20AM 2 they ended arrested me around the corner.  
10:20AM 3 Q Did they put handcuffs on you?  
10:20AM 4 A Yes.  
10:20AM 5 Q What did you tell them when they put handcuffs on you?  
10:20AM 6 A That I wanted to call my lawyer.  
10:20AM 7 Q How did you know to do that?  
10:20AM 8 A That's what we did when we got busted.  
10:20AM 9 Q And what happened after you told them that?  
10:20AM 10 A They ended up releasing me.  
10:21AM 11 Q What happened with the Mercedes?  
10:21AM 12 A They -- they took the Mercedes.  
10:21AM 13 Q With the firearm inside?  
10:21AM 14 A Yes.  
10:21AM 15 Q Did they also encounter Dayson Kaae near the car?  
10:21AM 16 A Yes.  
10:21AM 17 Q Did they ever arrest him?  
10:21AM 18 A Yes.  
10:21AM 19 Q They did?  
10:21AM 20 A Yes.  
10:21AM 21 Q For what?  
10:21AM 22 A They just arrested him and he was released.  
10:21AM 23 Q Okay. How long was he in custody, if you recall?  
10:21AM 24 A We were just -- we both just had cuffs on us on the side  
10:21AM 25 of the street and then they let us go.

10:21AM 1 Q They didn't take you in for booking?

10:21AM 2 A No.

10:21AM 3 MR. NAMMAR: Can we show the -- or can we publish,

10:21AM 4 Your Honor, 1-74 from the original list?

10:21AM 5 THE COURT: Go ahead.

10:21AM 6 BY MR. NAMMAR:

10:21AM 7 Q Do you recognize what's shown in 1-74?

10:21AM 8 A Yes.

10:21AM 9 Q What is this?

10:22AM 10 A That was a picture of me on the sidewalk.

10:22AM 11 Q This is when you were in -- briefly in custody outside the  
10:22AM 12 barber shop?

10:22AM 13 A Yes.

10:22AM 14 Q With respect to the stolen Mercedes?

10:22AM 15 A Yes.

10:22AM 16 MR. NAMMAR: Can we publish 1-73?

10:22AM 17 THE COURT: You may.

10:22AM 18 BY MR. NAMMAR:

10:22AM 19 Q What is shown here?

10:22AM 20 A Days.

10:22AM 21 Q You believe this is also on that day?

10:22AM 22 A Yes.

10:22AM 23 MR. NAMMAR: Can we publish 1-76?

10:22AM 24 THE COURT: Go ahead.

10:22AM 25 BY MR. NAMMAR:



10:22AM 1 Q What is shown here, Mr. Smith?

10:22AM 2 A The trunk of the Mercedes.

10:22AM 3 Q Is this where you had the firearm?

10:22AM 4 A Yes.

10:22AM 5 Q It looks like there's a white object on the right and on  
10:22AM 6 the left what are those?

10:22AM 7 A Boxing gloves.

10:22AM 8 Q Were those yours?

10:22AM 9 A Yes.

10:22AM 10 MR. NAMMAR: Can we publish 1-77?

10:23AM 11 THE COURT: Go ahead.

10:23AM 12 BY MR. NAMMAR:

10:23AM 13 Q Do you recognize this, Mr. Smith?

10:23AM 14 A Yes.

10:23AM 15 Q What is it?

10:23AM 16 A That was the shotgun that was in the trunk.

10:23AM 17 Q That was taken by the police?

10:23AM 18 A Yes.

10:23AM 19 Q The one you got from Dusky Boy?

10:23AM 20 A Yes.

10:23AM 21 MR. NAMMAR: I'm going into a new topic, Your Honor.

10:23AM 22 I don't know if you want to take a break now. I can keep  
10:23AM 23 going. I'm happy to do whatever.

10:23AM 24 THE COURT: You read my mind. Thank you. Let's go

10:23AM 25 ahead and take our first break of the trial day then. At this

10:23AM 1 point, we're at 10:25.

10:23AM 2 As we go to break, I'll remind our jurors to please

10:23AM 3 refrain from discussing the substance of this case with anyone,

10:23AM 4 including each another; also do not conduct any independent

10:23AM 5 investigation; and do not access any media or other accounts of

10:23AM 6 this case that may be out there.

10:23AM 7 (Proceedings were recessed at 10:23 a.m. to 10:55

10:27AM 8 a.m.)

10:55AM 9 THE COURT: All right. Mr. Nammar, you may resume

10:55AM 10 with your direct of Mr. Smith when you're ready.

10:55AM 11 MR. NAMMAR: Thank you, Your Honor.

10:55AM 12 BY MR. NAMMAR:

10:55AM 13 Q So we just talked about the Mercedes incident with Dayson

10:56AM 14 Kaae and before that we talked about the game room robbery with

10:56AM 15 Mr. Kaae. Several weeks after the Mercedes incident with

10:56AM 16 Mr. Kaae in November of 2017, did you have a conversation with

10:56AM 17 Mr. Miske about Aloha Tattoo?

10:56AM 18 A Yes.

10:56AM 19 Q And where did you have the initial conversation with

10:56AM 20 Mr. Miske about Aloha Tattoo?

10:56AM 21 A Outside of Roy's in Waikiki in Hawaii Kai.

10:56AM 22 Q Is Roy's -- what is Roy's?

10:56AM 23 A It's a steak restaurant.

10:56AM 24 Q And we've looked at a number of pictures or several

10:56AM 25 pictures from what you referred to as the bay in Hawaii Kai?

10:56AM 1 A Yes.

10:56AM 2 Q Is Roy's close to the bay?

10:56AM 3 A It's right across.

10:56AM 4 Q Okay. And so where did you talk with Mr. Miske at Roy's?

10:56AM 5 A Right outside of Roy's in the parking lot.

10:57AM 6 Q Was it just the two of you?

10:57AM 7 A Yes.

10:57AM 8 Q And what did you guys talk about?

10:57AM 9 A Assaulting the owner of Aloha Tattoo.

10:57AM 10 Q Who brought that up?

10:57AM 11 A Mike.

10:57AM 12 Q He wanted you to do -- to do that?

10:57AM 13 A Yes.

10:57AM 14 Q And what did he say about why?

10:57AM 15 A He said that his friend Billy or something at 808 Tattoo

10:57AM 16 got beat up by Tim from Aloha Tattoo.

10:57AM 17 Q Okay. So he said his friend Billy from 808 Tattoo. Did

10:57AM 18 you know where that business was?

10:57AM 19 A I know where it is -- but, yeah, I know where it. Is it's

10:57AM 20 in Kaneohe.

10:57AM 21 Q Okay. And he said -- what did he say what happened to

10:57AM 22 Billy?

10:57AM 23 A He got assaulted or something in front of his family.

10:57AM 24 Q By who?

10:57AM 25 A By the owner of Aloha Tattoo.

10:57AM 1 Q And what did he ask you to do with respect to the owner of  
10:57AM 2 Aloha Tattoo?  
10:58AM 3 A To go over there and assault him.  
10:58AM 4 Q Go over where?  
10:58AM 5 A To Aloha Tattoo.  
10:58AM 6 Q Did he tell you the name of the target at that time the  
10:58AM 7 owner?  
10:58AM 8 A He didn't. I don't know if he told me the name or not but  
10:58AM 9 he told me it was the owner of Aloha Tattoo.  
10:58AM 10 Q Okay. Did he tell you anything about more information  
10:58AM 11 from Johnnie?  
10:58AM 12 A Yes.  
10:58AM 13 Q What did he tell you?  
10:58AM 14 A Johnnie knew who it was so we ended up going together.  
10:58AM 15 Q Okay. And did he give you any specific instructions about  
10:58AM 16 the level of the assault that he wanted on the owner of Aloha  
10:58AM 17 Tattoo?  
10:58AM 18 A He just told me to smash him.  
10:58AM 19 Q What did "smash him" mean?  
10:58AM 20 A He wanted me to hurt him.  
10:58AM 21 Q He talked before about hospitalizing people. Did you  
10:58AM 22 equate smashing to hospitalizing?  
10:58AM 23 A Yes.  
10:58AM 24 Q After this conversation with Mr. Miske, did you follow up  
10:59AM 25 with John Stancil about it?

10:59AM 1 A Sometimes I would; sometimes I wouldn't. We didn't follow  
10:59AM 2 up on it until the day that Mike had Johnnie do it.  
10:59AM 3 Q Okay. And did -- on that day, did Johnnie have some items  
10:59AM 4 with him?  
10:59AM 5 A Yes.  
10:59AM 6 Q What items?  
10:59AM 7 A He had the mask that you showed on the screen, the skull  
10:59AM 8 on the front and he had batons and gloves.  
10:59AM 9 Q Do you know where he got the mask from?  
10:59AM 10 A I'm not sure.  
10:59AM 11 Q Do you know where he got the baton from?  
10:59AM 12 A Yes.  
10:59AM 13 Q From who?  
10:59AM 14 A From Mike.  
10:59AM 15 Q How do you know that?  
10:59AM 16 A He told me that Mike had a lot of them.  
10:59AM 17 Q Johnnie told you that?  
10:59AM 18 A Yes.  
10:59AM 19 Q Did Mike or -- excuse me. Did Johnnie -- so you got  
10:59AM 20 together with Johnnie before it happens?  
10:59AM 21 A Yes.  
10:59AM 22 Q And when you were with him, did he say anything about  
11:00AM 23 pressure he was getting?  
11:00AM 24 A Yes. He -- he felt like he had to get that one done  
11:00AM 25 because Mike was always making like Johnnie was useless.

11:00AM 1 Q Did Johnnie tell you he wanted to prove himself?

11:00AM 2 A Yes.

11:00AM 3 Q Would you see Mr. Miske exert the same kind of pressure in

11:00AM 4 your presence on Mr. Stancil at other times?

11:00AM 5 A Yes.

11:00AM 6 Q What would you see?

11:00AM 7 A He would just be downing Johnnie.

11:00AM 8 Q He'd do that in front of you?

11:00AM 9 A Sometimes.

11:00AM 10 Q So do you end up going to Aloha Tattoo?

11:00AM 11 A Yes.

11:00AM 12 Q How do you know get there?

11:00AM 13 A We jumped in Johnnie's car and we ended up driving over

11:00AM 14 there.

11:00AM 15 Q And what kind of car was that?

11:00AM 16 A A brown Camry.

11:00AM 17 Q That was Johnnie's car?

11:01AM 18 A Yes.

11:01AM 19 Q Who was with you?

11:01AM 20 A Me, Johnnie, Dayson and two young boys Cash and Jayword.

11:01AM 21 Q The young boys were Cash and Jayword?

11:01AM 22 A Yes.

11:01AM 23 Q Where did you guys go?

11:01AM 24 A We drove to Aloha Tattoo.

11:01AM 25 Q Where did you park?

11:01AM 1 A We parked right outside on the -- in front of the curb.

11:01AM 2 Q Was it daytime?

11:01AM 3 A Yes.

11:01AM 4 Q Could you guys see into the shop?

11:01AM 5 A Yes.

11:01AM 6 Q Could you see the owner inside the shop?

11:01AM 7 A Yes.

11:01AM 8 Q How long did you wait there?

11:01AM 9 A We were trying to wait there until he was going to come

11:01AM 10 outside.

11:01AM 11 Q Who was going to come outside?

11:01AM 12 A The owner.

11:01AM 13 Q And then what was the plan when he came outside?

11:01AM 14 A We were just going to assault him.

11:01AM 15 Q Who was going to do the assaulting?

11:01AM 16 A Me, Days and Johnnie.

11:01AM 17 Q When you were waiting outside, is there a point in time

11:02AM 18 that you thought Johnnie was being careless?

11:02AM 19 A Yes.

11:02AM 20 Q Careless about what?

11:02AM 21 A He was just Facetiming his -- his girlfriend too much like

11:02AM 22 he was putting us on camera too much.

11:02AM 23 Q Who was his girlfriend?

11:02AM 24 A Chloe.

11:02AM 25 Q Why did that matter to you that he was Facetiming her too

11:02AM 1 much?

11:02AM 2 A Mike used to tell us that she was a rat.

11:02AM 3 Q She was a rat?

11:02AM 4 A Yes.

11:02AM 5 Q What does a rat mean?

11:02AM 6 A Like she was -- her and her dad was cooperating with law  
11:02AM 7 enforcement.

11:02AM 8 Q So you were concerned about the fact that you were seen on  
11:02AM 9 video by her?

11:02AM 10 A Yes.

11:02AM 11 Q Where are you seated in the car?

11:02AM 12 A I'm sitting right next to Johnnie in the passenger seat.

11:02AM 13 Q Where is Johnnie seated?

11:02AM 14 A In the drivers.

11:02AM 15 Q Who was in the back?

11:02AM 16 A Right behind me is Dayson and then the two boys.

11:03AM 17 Q Whose idea was it to wait for him, the owner, to come out  
11:03AM 18 of the shop?

11:03AM 19 A Originally, that's how we were supposed to do it, like  
11:03AM 20 Mike said catch him when he came outside, but Johnnie told us  
11:03AM 21 we were going to wait first. That's what we were supposed to  
11:03AM 22 do.

11:03AM 23 Q Okay. Did Johnnie get impatient at some point?

11:03AM 24 A Yes.

11:03AM 25 MR. NAMMAR: Your Honor, can we publish 1-862 from the



11:03AM 1 original list?

11:03AM 2 THE COURT: Go ahead.

11:03AM 3 MR. NAMMAR: Thank you.

11:03AM 4 BY MR. NAMMAR:

11:03AM 5 Q Do you recognize who is shown in 1-862?

11:03AM 6 A Yes.

11:03AM 7 Q Who is this?

11:03AM 8 A Jayword.

11:03AM 9 Q Was he one of the boys in the back?

11:04AM 10 A Yes.

11:04AM 11 MR. NAMMAR: Can we publish 1-863 from the original

11:04AM 12 list?

11:04AM 13 THE COURT: Yes.

11:04AM 14 BY MR. NAMMAR:

11:04AM 15 Q Do you recognize who is shown in this picture?

11:04AM 16 A Yes.

11:04AM 17 Q Who?

11:04AM 18 A Cash.

11:04AM 19 Q Was he one of the other boys in the back?

11:04AM 20 A Yes.

11:04AM 21 Q So you said that Stancil gets impatient?

11:04AM 22 A He just really wanted to get it done.

11:04AM 23 Q Did he say why?

11:04AM 24 A He just kept saying he had to get it done for -- for Mike.

11:04AM 25 Q And does he eventually go in?

11:04AM 1 A He -- he wanted us to go in. He wanted me to go with  
11:04AM 2 him -- go in with him, but we were already on camera on the  
11:04AM 3 FaceTime and I was kind of unsure about it already.  
11:04AM 4 Q You were concerned?  
11:04AM 5 A Yes.  
11:04AM 6 Q So you -- did you go in?  
11:04AM 7 A No. He took Dayson with him.  
11:04AM 8 Q You stayed in the car?  
11:04AM 9 A Yes.  
11:04AM 10 Q What did you see from the car?  
11:05AM 11 A I seen Johnnie holding the door open with his mask on and  
11:05AM 12 his jacket.  
11:05AM 13 Q What kind of jacket?  
11:05AM 14 A A hoodie.  
11:05AM 15 Q And did you see anything in his hand?  
11:05AM 16 A He had his phone. He had his phone out recording.  
11:05AM 17 Q He was recording?  
11:05AM 18 A Yes.  
11:05AM 19 Q Who is -- well, where was Dayson?  
11:05AM 20 A Dayson went into the shop and punched the owner.  
11:05AM 21 Q Okay. Before we get to that, did Dayson go in first?  
11:05AM 22 A Yes.  
11:05AM 23 Q And then John followed?  
11:05AM 24 A John just stayed at the door and held the door open.  
11:05AM 25 Q With the camera recording?

11:05AM 1 A Yes.

11:05AM 2 Q Do you recall getting instructions from Mr. Miske to

11:05AM 3 record it?

11:05AM 4 A Yes.

11:05AM 5 Q What happened inside?

11:06AM 6 A Dayson punched the owner and he ended up getting stabbed.

11:06AM 7 Q Could you see that from where you were?

11:06AM 8 A No.

11:06AM 9 Q How did you find that out?

11:06AM 10 A Johnnie told me when they got back in the car and Dayson

11:06AM 11 was screaming.

11:06AM 12 Q Who was screaming?

11:06AM 13 A Dayson.

11:06AM 14 Q Why was he screaming?

11:06AM 15 A Because he got stabbed.

11:06AM 16 Q So you see them come back into the car?

11:06AM 17 A Yes.

11:06AM 18 Q Where does Dayson sit?

11:06AM 19 A He sits right behind me in the back passenger.

11:06AM 20 Q What's his condition like?

11:06AM 21 A He was holding his stomach. He ended up -- ended up

11:06AM 22 nodding out.

11:06AM 23 Q While he was in your presence?

11:06AM 24 A Like we -- when we got to where we parked at, we seen him

11:06AM 25 like nodding out.

11:06AM 1 Q Was he bleeding?

11:06AM 2 A Yes.

11:06AM 3 Q So when Dayson gets back in the car and John Stancil gets

11:07AM 4 back in the car, what happens?

11:07AM 5 A The owner popped the tire.

11:07AM 6 Q Did you know the owner's name at that point?

11:07AM 7 A I knew his name was Tim.

11:07AM 8 Q And what does he -- how does he do that?

11:07AM 9 A He stabs it with a knife.

11:07AM 10 Q You saw him do that?

11:07AM 11 A Yes.

11:07AM 12 Q What happens after the tires are stabbed?

11:07AM 13 A I'm telling Johnnie to take Days to the hospital but the

11:07AM 14 tire is flat so he pulls around the corner.

11:07AM 15 Q And how far did you get?

11:07AM 16 A Not far. We got around the corner and down the road a

11:07AM 17 little bit.

11:07AM 18 Q When you told Johnnie to take Days to the hospital, did he

11:07AM 19 say why he wasn't going to do it?

11:07AM 20 A He just said we weren't going to be able to make it.

11:07AM 21 Q Why don't you guys call for help?

11:08AM 22 A We didn't know what to do. I didn't want Johnnie to get

11:08AM 23 in trouble, and we just didn't know what to do.

11:08AM 24 Q So where do you guys go?

11:08AM 25 A We ended getting somebody to pick us -- Johnnie left

11:08AM 1 first. He was gone with his girlfriend, and then I took the  
11:08AM 2 two young boys with me. They came with me, and I was trying to  
11:08AM 3 find a ride for us. I called my friend to pick us up.  
11:08AM 4 Q Where did you leave the car?  
11:08AM 5 A Right there.  
11:08AM 6 Q Where?  
11:08AM 7 A Outside of Kailua Assagios.  
11:08AM 8 Q How close was that to the tattoo shop?  
11:08AM 9 A It was only right and the corner.  
11:08AM 10 Q Where is Dayson when you left the car?  
11:08AM 11 A He was in the back seat.  
11:08AM 12 Q Did he seem like he was alive at that point?  
11:08AM 13 A No.  
11:08AM 14 Q Were you mad at John at that point?  
11:08AM 15 A Yes.  
11:08AM 16 Q Why?  
11:08AM 17 A Because Days was my friend.  
11:08AM 18 Q Where did you guys go? You and Cash and Jayword?  
11:09AM 19 A I think we went right across the street to the O'Reillys.  
11:09AM 20 We waited for our ride to come.  
11:09AM 21 Q Who did you get a ride from?  
11:09AM 22 A From Ash.  
11:09AM 23 Q Where did she take you?  
11:09AM 24 A To Frankie's.  
11:09AM 25 Q Frankie Silva?

11:09AM 1 A Yes.

11:09AM 2 Q What happens there?

11:09AM 3 A We were just waiting. We're kind of calling around and we  
11:09AM 4 ended up going to Kahala mall after, too.

11:09AM 5 Q Okay. Before we get to that, where -- where does John go,  
11:09AM 6 if you know?

11:09AM 7 A I don't know he went. He just went with his girlfriend.

11:09AM 8 Q Is that Chloe?

11:09AM 9 A Yes.

11:09AM 10 MR. NAMMAR: Your Honor, can we publish 1-220 from the  
11:09AM 11 original list?

11:09AM 12 THE COURT: Go ahead.

11:09AM 13 BY MR. NAMMAR:

11:10AM 14 Q Mr. Smith, do you recognize what is shown here?

11:10AM 15 A Yes.

11:10AM 16 Q What is shown here?

11:10AM 17 A Aloha Tattoo shop.

11:10AM 18 Q And you talked about -- well, was this where were you  
11:10AM 19 parked in front of?

11:10AM 20 A Yes.

11:10AM 21 Q Do you see the door that you talked about that Mr. Stancil  
11:10AM 22 was holding open and filming?

11:10AM 23 A Yes.

11:10AM 24 Q Which door is it?

11:10AM 25 A Those double doors right there.

11:10AM 1 Q That are right in front of us?

11:10AM 2 A Yes.

11:10AM 3 MR. NAMMAR: Your Honor, may we publish 12, dash --

11:10AM 4 excuse me, 1-242?

11:10AM 5 THE COURT: Go ahead.

11:10AM 6 MR. NAMMAR: Thank you.

11:10AM 7 BY MR. NAMMAR:

11:10AM 8 Q Mr. Smith, do you recognize what's shown here?

11:10AM 9 A Yes.

11:10AM 10 Q What is shown here?

11:10AM 11 A That was the car we were sitting in, Johnnie's Camry.

11:10AM 12 Q And this area where it is, do you recognize that?

11:11AM 13 A Yes.

11:11AM 14 Q What -- what -- what's in this area?

11:11AM 15 A Assagios.

11:11AM 16 Q Is that where you left the car?

11:11AM 17 A Yes.

11:11AM 18 MR. NAMMAR: May we show the witness or can we publish

11:11AM 19 1-247?

11:11AM 20 THE COURT: You may.

11:11AM 21 BY MR. NAMMAR:

11:11AM 22 Q Do you recognize what is shown here?

11:11AM 23 A Yes.

11:11AM 24 Q What is it?

11:11AM 25 A The back seat of the car.

11:11AM 1 Q And do you notice anything about the tires in this photo?

11:11AM 2 A Yes.

11:11AM 3 Q What do you notice?

11:11AM 4 A They are flat.

11:11AM 5 Q Is that what you recall when you were driving off?

11:11AM 6 A Yes.

11:11AM 7 Q And it looks like, if we can zoom in on the back seat,

11:11AM 8 there's some blood on the back seat. Do you see that?

11:11AM 9 A Yes.

11:11AM 10 Q Is that where Dayson was sitting?

11:12AM 11 A Yes.

11:12AM 12 MR. NAMMAR: May we publish, Your Honor, 1-253?

11:12AM 13 THE COURT: Go ahead.

11:12AM 14 BY MR. NAMMAR:

11:12AM 15 Q Do you recognize the item that is shown here in this

11:12AM 16 picture?

11:12AM 17 A Yes.

11:12AM 18 Q What is that item?

11:12AM 19 A Those are Johnnie's gloves.

11:12AM 20 Q Do you recall whether he was wearing those when he went

11:12AM 21 into Aloha Tattoo to film?

11:12AM 22 A I would think so he was.

11:12AM 23 Q You think he was?

11:12AM 24 A Yes.

11:12AM 25 Q May we publish 1-307?



11:12AM 1 Do you recognize -- thank you. Do you recognize what  
11:12AM 2 is shown in this photo?

11:12AM 3 A Yes.

11:12AM 4 Q What is it?

11:12AM 5 A The baton.

11:12AM 6 Q So you said -- does this look like the one you said he got  
11:12AM 7 from Mr. Miske?

11:12AM 8 A Yes.

11:12AM 9 Q Can you circle where you see the baton? And did you see  
11:13AM 10 whether Mr. Stancil had that when he was holding the door open  
11:13AM 11 and recording?

11:13AM 12 A He had it in his pants.

11:13AM 13 Q Does this appear to you to be the same kind of baton that  
11:13AM 14 you had when you assaulted the Kama'aina Termite employee?

11:13AM 15 A Yes.

11:13AM 16 Q And the same kind baton that you had when you went into  
11:13AM 17 the KTV Lounge?

11:13AM 18 A Yes.

11:13AM 19 MR. NAMMAR: May we publish 1-308?

11:13AM 20 BY MR. NAMMAR:

11:13AM 21 Q Do you recognize what's shown here?

11:13AM 22 THE COURT: Yes.

11:13AM 23 MR. NAMMAR: Sorry, Your Honor.

11:13AM 24 BY MR. NAMMAR:

11:13AM 25 Q Do you recognize what is shown here?

11:13AM 1 A Yes.

11:13AM 2 Q What is it?

11:13AM 3 A A baton.

11:13AM 4 MR. NAMMAR: Can we publish 1-319?

11:13AM 5 THE COURT: Yes, go ahead.

11:13AM 6 BY MR. NAMMAR:

11:14AM 7 Q Do you recognize what is shown here, Mr. Smith?

11:14AM 8 A Yes.

11:14AM 9 Q What is shown here?

11:14AM 10 A That's Johnnie's shirt company.

11:14AM 11 Q Leverage HNL is his shirt company?

11:14AM 12 A Yes.

11:14AM 13 Q What did he do with respect to that?

11:14AM 14 A What did he?

11:14AM 15 Q Is that his business?

11:14AM 16 A Yes.

11:14AM 17 Q And they sold what?

11:14AM 18 A Shirts.

11:14AM 19 MR. NAMMAR: May we publish 1-320?

11:14AM 20 THE COURT: Go ahead.

11:14AM 21 BY MR. NAMMAR:

11:14AM 22 Q Do you recognize the items that appear on the driver's  
11:14AM 23 seat here?

11:14AM 24 A Yes.

11:14AM 25 Q What are they?

11:14AM 1 A They're gloves.

11:14AM 2 MR. NAMMAR: May we publish 1-321?

11:14AM 3 THE COURT: Yes.

11:14AM 4 BY MR. NAMMAR:

11:14AM 5 Q Do you recognize what is shown here?

11:14AM 6 A Yes.

11:14AM 7 Q What's shown here?

11:14AM 8 A The same gloves.

11:14AM 9 Q That Mr. Stancil had?

11:15AM 10 A Yes.

11:15AM 11 MR. NAMMAR: May we publish 1-323?

11:15AM 12 THE COURT: Yes.

11:15AM 13 BY MR. NAMMAR:

11:15AM 14 Q Do you recognize now some of the items that are sitting on  
11:15AM 15 the driver's seat?

11:15AM 16 A Yes.

11:15AM 17 Q What do you recognize?

11:15AM 18 A The mask with the skull face he used and the gloves.

11:15AM 19 Q Which glove are you -- can you circle the glove you're  
11:15AM 20 talking about? For the record, you circled a black object  
11:15AM 21 closest on the right-hand side. What kind of glove was that?

11:15AM 22 A Latex gloves.

11:15AM 23 Q And did you know why Stancil had those?

11:15AM 24 A I don't know if he wore them underneath or -- or what.

11:15AM 25 Q But you recall him having those at one point?

11:15AM 1 A Yes.

11:15AM 2 Q And the mask that you mentioned, can you circle that?

11:15AM 3 Just for the record, just above two symbol, what was on that

11:15AM 4 mask?

11:15AM 5 A A skull face.

11:16AM 6 Q And was that the mask that Mr. Stancil was wearing?

11:16AM 7 A Yes.

11:16AM 8 MR. NAMMAR: May we publish 1-324?

11:16AM 9 THE COURT: Yes.

11:16AM 10 BY MR. NAMMAR:

11:16AM 11 Q Do you recognize what's here?

11:16AM 12 A Yes.

11:16AM 13 Q What is it?

11:16AM 14 A The same mask.

11:16AM 15 Q The mask that Stancil was wearing?

11:16AM 16 A Yes.

11:16AM 17 MR. NAMMAR: May we publish 1-329?

11:16AM 18 THE COURT: Go ahead.

11:16AM 19 BY MR. NAMMAR:

11:16AM 20 Q Do you recognize what is shown here?

11:16AM 21 A Yes.

11:16AM 22 Q What is it?

11:16AM 23 A The latex gloves.

11:16AM 24 Q Different from the other gloves we look at previously?

11:16AM 25 A Yes.

11:16AM 1 MR. NAMMAR: Your Honor, can we at this time publish  
11:16AM 2 1-293 which is a video?  
11:16AM 3 THE COURT: Go ahead.  
11:16AM 4 (Video was played.)  
11:17AM 5 MR. NAMMAR: Can we stop it?  
11:17AM 6 BY MR. NAMMAR:  
11:17AM 7 Q Do you recognize the vehicle in this video?  
11:17AM 8 A Yes.  
11:17AM 9 Q What is it?  
11:17AM 10 A The brown Camry, Johnnie's brown Camry.  
11:17AM 11 Q And who do you recognize that gets out first?  
11:17AM 12 A See the two young boys get out the back seat and I see  
11:17AM 13 Johnnie get out the front seat in the white jacket.  
11:17AM 14 Q Okay.  
11:17AM 15 MR. NAMMAR: Can we back that up again? All the way  
11:17AM 16 maybe, thanks. You can hit play.  
11:17AM 17 (Video was played.)  
11:17AM 18 MR. NAMMAR: Can you stop it?  
11:18AM 19 BY MR. NAMMAR:  
11:18AM 20 Q What do you see with -- do you see anything with respect  
11:18AM 21 to that white jacket you mentioned?  
11:18AM 22 A Yes.  
11:18AM 23 Q What do you see?  
11:18AM 24 A I see Johnnie taking it off.  
11:18AM 25 Q Okay. Do you recall him wearing that jacket?

11:18AM 1 A Yes.

11:18AM 2 Q When did he wear that jacket?

11:18AM 3 A I think that's what he went in with.

11:18AM 4 Q When he was filming?

11:18AM 5 A Yes.

11:18AM 6 Q Okay.

11:18AM 7 MR. NAMMAR: Can you hit play?

11:18AM 8 (Video was played.)

11:18AM 9 MR. NAMMAR: Okay. We can stop it.

11:18AM 10 BY MR. NAMMAR:

11:18AM 11 Q Did you recognize the last person in that?

11:18AM 12 A Yes.

11:18AM 13 Q Who was that?

11:18AM 14 A Me.

11:18AM 15 Q What were you doing?

11:18AM 16 A I got out of the right passenger's and I was grabbing

11:19AM 17 whatever stuff we had in the car whatever I could grab.

11:19AM 18 Q Were you grabbing something out of the trunk?

11:19AM 19 A I think so, yes.

11:19AM 20 Q And in that video, could you see Mr. Stancil getting out

11:19AM 21 of the driver's seat?

11:19AM 22 A Yes.

11:19AM 23 Q And is that what you recall he was driving the car away?

11:19AM 24 A Yes.

11:19AM 25 Q And you were seated in the passenger seat?

11:19AM 1 A Yes.

11:19AM 2 MR. NAMMAR: Can we publish now 1-219, Your Honor?

11:19AM 3 THE COURT: Go ahead.

11:19AM 4 BY MR. NAMMAR:

11:19AM 5 Q Do you see where Aloha Tattoo -- well, do you recognize  
11:19AM 6 this map?

11:19AM 7 A Yes.

11:19AM 8 Q Do you see where Aloha Tattoo is?

11:19AM 9 A Yes.

11:19AM 10 Q Can you put an X on it? And do you remember the route of  
11:19AM 11 travel to Assagios?

11:19AM 12 A Yes.

11:19AM 13 Q Can you trace the route of travel? So you went down  
11:20AM 14 Aulike Street?

11:20AM 15 A Yes.

11:20AM 16 Q That's what you recall?

11:20AM 17 A Yes.

11:20AM 18 Q And stopped there?

11:20AM 19 A Yes.

11:20AM 20 MR. NAMMAR: We can take that down.

11:20AM 21 BY MR. NAMMAR:

11:20AM 22 Q When you met up with Frankie, did you learn what happened  
11:20AM 23 to Dayson?

11:20AM 24 A Yes.

11:20AM 25 Q What did you learn?

11:20AM 1 A I heard he passed away.

11:20AM 2 Q What were you feeling at that point?

11:20AM 3 A I was angry; I was upset.

11:20AM 4 Q Were you angry -- were you angry at John?

11:20AM 5 A Yes.

11:20AM 6 Q Did you -- do you recall threatening him at all?

11:20AM 7 A Yes.

11:20AM 8 Q How did you do that?

11:20AM 9 A We were just arguing on Snapchat.

11:21AM 10 Q And after you threatened John, did you get -- did -- did

11:21AM 11 Miske reach out to you?

11:21AM 12 A Yes.

11:21AM 13 Q What did he tell you to do?

11:21AM 14 A He said to meet him at Kahala mall.

11:21AM 15 Q And did you go there?

11:21AM 16 A Yes.

11:21AM 17 Q Did you meet with Miske?

11:21AM 18 A Yes.

11:21AM 19 Q Who else was present?

11:21AM 20 A Nobody.

11:21AM 21 Q What was Miske -- well, what -- what do you recall about

11:21AM 22 what took place? What was said?

11:21AM 23 A I just jumped into a black truck. He said that I had to

11:21AM 24 stop threatening Johnnie, arguing with Johnnie because we was

11:21AM 25 all we had.



11:21AM 1 Q Did he say anything about Dayson?

11:21AM 2 A He said Dayson was going to be all right.

11:21AM 3 Q But you knew that wasn't so, right?

11:21AM 4 A Yes.

11:21AM 5 Q And when you say "all we had," you said he said that's all

11:22AM 6 we had. What did you take that to mean?

11:22AM 7 A He said, "We were -- we was family and we was all each

11:22AM 8 other had."

11:22AM 9 Q Did he say anything about Jay and Cash -- Jayword and

11:22AM 10 Cash?

11:22AM 11 A He said he wanted to talk to them.

11:22AM 12 Q Did he tell you where he wanted to do that?

11:22AM 13 A Yes.

11:22AM 14 Q What did he say?

11:22AM 15 A We met at the Enchanted Lakes Safeway behind the Safeway

11:22AM 16 and the movie theaters.

11:22AM 17 Q Did he tell you to go there?

11:22AM 18 A Yes.

11:22AM 19 Q And did you end up getting the boys?

11:22AM 20 A Yes.

11:22AM 21 Q Cash and Jayword?

11:22AM 22 A Yes.

11:22AM 23 Q What time of day was it or night was it when you went?

11:22AM 24 Was it dark?

11:22AM 25 A It was dark.

11:22AM 1 Q And what does -- specifically do you recall what Mr. Miske  
11:22AM 2 told you to do at the Safeway as far as the meeting with the  
11:22AM 3 boys?  
11:22AM 4 A He told me to come in the back first so he could talk to  
11:23AM 5 me and then I brought the boys back there to talk to him after.  
11:23AM 6 Q Did you talk to him in the back?  
11:23AM 7 A Yes.  
11:23AM 8 Q Just you and him?  
11:23AM 9 A Yes.  
11:23AM 10 Q Where did you talk to him?  
11:23AM 11 A By the dumpsters behind the Safeway and movie theater.  
11:23AM 12 Q And what did you guys talk about?  
11:23AM 13 A That he wanted to talk to the boys and what happened  
11:23AM 14 pretty much.  
11:23AM 15 Q Did he give you any money?  
11:23AM 16 A He gave us money to go to a hotel that night.  
11:23AM 17 THE COURT REPORTER: I'm sorry. Say that again.  
11:23AM 18 THE WITNESS: He gave us money to go to a hotel that  
11:23AM 19 night.  
11:23AM 20 BY MR. NAMMAR:  
11:23AM 21 Q Why did he bring up a hotel, if you know?  
11:23AM 22 A He didn't want the boys going back to where they are  
11:23AM 23 staying. It was Lindsey Kinney's sister's house.  
11:23AM 24 Q So Cash and Jayword had been staying at Lindsey Kinney's  
11:23AM 25 sister's house?

11:23AM 1 A Yes.

11:23AM 2 Q Why did that matter?

11:23AM 3 A Because Lindsey Kinney and us were beefing at the time.

11:24AM 4 Q Did Mr. Miske tell you that anything about Cash and

11:24AM 5 Jayword becoming witnesses?

11:24AM 6 A Yes.

11:24AM 7 Q What did he tell you?

11:24AM 8 A He didn't want them to become witnesses to that.

11:24AM 9 Q And so is it your understanding that that's why you were

11:24AM 10 taking them to a hotel?

11:24AM 11 A Yes.

11:24AM 12 Q With the cash that Mr. Miske gave you?

11:24AM 13 A Yes.

11:24AM 14 Q When you met with Mr. Miske, did he have a mask on?

11:24AM 15 A When I first met with him, he didn't but then he put the

11:24AM 16 mask on to talk to the boys.

11:24AM 17 Q How do you know that?

11:24AM 18 A Because we came back, he was taking it off when I was

11:24AM 19 talking to him, and the boys said he had the mask on.

11:24AM 20 Q So did you see the boys go and meet with Mr. Miske?

11:24AM 21 A Yes.

11:24AM 22 Q What did you see?

11:24AM 23 A I seen them walk around the corner and go talk to Mike in

11:24AM 24 the truck.

11:24AM 25 Q This is Cash and Jayword?

11:24AM 1 A Yes.

11:24AM 2 Q Did they go one by one or together?

11:24AM 3 A I think they went one by one.

11:25AM 4 Q And did you speak with the boys when they came back?

11:25AM 5 A Yes.

11:25AM 6 Q What did they tell you?

11:25AM 7 A They were just scared because Mike had the mask on.

11:25AM 8 MR. NAMMAR: Your Honor, may we publish 1-219 alpha

11:25AM 9 which is from our fourth supplemental list?

11:25AM 10 THE COURT: Go ahead.

11:25AM 11 BY MR. NAMMAR:

11:25AM 12 Q Mr. Smith, do you recognize the overhead that's shown  
11:25AM 13 here?

11:25AM 14 A Yes.

11:25AM 15 Q What is shown here?

11:25AM 16 A The shopping center we met at.

11:25AM 17 Q The shopping center that you met with Mr. Miske?

11:25AM 18 A Yes.

11:25AM 19 Q And that you took Cash and Jayword to?

11:25AM 20 A Yes.

11:25AM 21 Q Do you see on here -- can you see the area where you  
11:26AM 22 talked with Miske?

11:26AM 23 A Yes.

11:26AM 24 Q Where is it?

11:26AM 25 A It's in the back over here.

11:26AM 1 Q For the record, just to the left of Enchanted Lake Pet; is  
11:26AM 2 that right?

11:26AM 3 A I think so. It was in the -- it was behind the shopping  
11:26AM 4 center. It wasn't in the front.

11:26AM 5 Q And is that also where you recall that Mr. Miske met with  
11:26AM 6 Cash individually and Jayword individually?

11:26AM 7 A Yes.

11:26AM 8 MR. NAMMAR: Your Honor, may we publish 1-1098 from  
11:26AM 9 our fourth supplemental?

11:26AM 10 THE COURT: Yes.

11:26AM 11 MR. NAMMAR: There's no sound on this one I don't  
11:26AM 12 think. Is there any way we can rotate that? Thanks.

11:26AM 13 BY MR. NAMMAR:

11:27AM 14 Q Mr. Smith, we've just played you that video 1-1098. Do  
11:27AM 15 you recognize the truck?

11:27AM 16 A Yes.

11:27AM 17 Q What do you -- how do you recognize it?

11:27AM 18 A That was Mike's truck.

11:27AM 19 Q And do you recall on the night that you went to Enchanted  
11:27AM 20 Lake, Safeway whether he had that truck?

11:27AM 21 A Yes.

11:27AM 22 Q He had that truck?

11:27AM 23 A Yes.

11:27AM 24 Q What kind of truck was it?

11:27AM 25 A GMC.

11:27AM 1 MR. NAMMAR: Your Honor, can we publish 1-1102 from

11:27AM 2 the 9th supplemental?

11:28AM 3 THE COURT: Go ahead.

11:28AM 4 MR. NAMMAR: Thank you.

11:28AM 5 BY MR. NAMMAR:

11:28AM 6 Q Mr. Smith, do you recognize what's in this photo?

11:28AM 7 A Yes.

11:28AM 8 Q What's in this photo?

11:28AM 9 A The hotel we stayed at that night.

11:28AM 10 Q Who did you go with?

11:28AM 11 A Me, Cash and Jayword.

11:28AM 12 Q Did you go -- go with anyone else?

11:28AM 13 A Yes.

11:28AM 14 Q Who?

11:28AM 15 A My other friend Kayla.

11:28AM 16 THE COURT REPORTER: I'm sorry. Kayla?

11:28AM 17 THE WITNESS: Yes.

11:28AM 18 BY MR. NAMMAR:

11:28AM 19 Q And do you recall whether Kayla did anything with respect

11:28AM 20 to booking the room?

11:28AM 21 A She just -- yeah, she just booked the room for us.

11:28AM 22 Q Under her name?

11:28AM 23 A Yes.

11:28AM 24 MR. NAMMAR: May we publish 1-292, Your Honor, from

11:28AM 25 the original list?

11:29AM 1 THE COURT: Go ahead.

11:29AM 2 BY MR. NAMMAR:

11:29AM 3 Q Mr. Smith, 1-292 is up. It's under the name at the top

11:29AM 4 looks like Kayla Keoho. Do you recognize that?

11:29AM 5 A Yes.

11:29AM 6 Q Who is that?

11:29AM 7 A That was Kayla. That was my friend.

11:29AM 8 Q She is the one that booked the room?

11:29AM 9 A Yes.

11:29AM 10 Q And do these dates in late November does that seem

11:29AM 11 accurate to you as to when you stayed there?

11:29AM 12 A Yes.

11:29AM 13 Q Do you recall whether you stayed there one or two nights?

11:29AM 14 A I think I only stayed there one night.

11:29AM 15 Q Do you recall a meeting with Mr. Miske the night -- the --

11:30AM 16 after you stayed the night at the DoubleTree hotel?

11:30AM 17 A Yes.

11:30AM 18 Q Where was that meeting?

11:30AM 19 A It was in the -- in the parking lot behind the Hilton

11:30AM 20 Hawaiian gardens or the Hilton Hawaiian inn.

11:30AM 21 Q So not far from the DoubleTree?

11:30AM 22 A No.

11:30AM 23 Q Was the DoubleTree in Waikiki?

11:30AM 24 A Yes.

11:30AM 25 Q And was the place that you met also in Waikiki?

11:30AM 1 A Yes.

11:30AM 2 Q Who did you bring with you?

11:30AM 3 A Cash and Jayword.

11:30AM 4 Q And where did you guys meet?

11:30AM 5 A We met in the pier behind the Hilton.

11:30AM 6 Q And did you meet in a car or what do you recall?

11:30AM 7 A I'm not even sure. I think we went over there in

11:30AM 8 Frankie's car.

11:30AM 9 Q Okay. And then where did you meet with Mr. Miske?

11:30AM 10 A Right there at the pier. I walked over to his -- the car

11:30AM 11 he was in.

11:30AM 12 Q Okay. And do you recall anything about law enforcement

11:30AM 13 coming up during that meeting?

11:31AM 14 A Yeah, he thought that there was an SUV in the parking lot

11:31AM 15 that was feds.

11:31AM 16 Q Is that what Mr. Miske told you?

11:31AM 17 A Yes.

11:31AM 18 Q What did Mr. Miske do when he saw what he thought was the

11:31AM 19 feds?

11:31AM 20 A He wanted to go.

11:31AM 21 Q Did he leave?

11:31AM 22 A And meet up with me later.

11:31AM 23 Q Did he leave right away?

11:31AM 24 A Yes.

11:31AM 25 Q Do you recall whether he was wearing a mask at that time?



11:31AM 1 A No.

11:31AM 2 Q He wasn't wearing a mask?

11:31AM 3 A No.

11:31AM 4 Q Did he meet with the boys do you recall?

11:31AM 5 A I -- I don't think so, no.

11:31AM 6 Q I'm going to ask you now about somebody by the name of

11:31AM 7 Brandon Torres?

11:31AM 8 A Yes.

11:31AM 9 Q Do you know who that is?

11:31AM 10 A Yes.

11:31AM 11 Q Who is Brandon Torres?

11:31AM 12 A That was somebody we robbed.

11:31AM 13 Q And do you believe that happened in or around 2017?

11:32AM 14 A Yes.

11:32AM 15 Q Did Johnnie give you intelligence for this -- John Stancil

11:32AM 16 give you intelligence for this robbery?

11:32AM 17 A Yes.

11:32AM 18 Q What did he tell you?

11:32AM 19 A He told us where he was that night.

11:32AM 20 Q Did he tell you anything about Instagram live?

11:32AM 21 A He told us that the guy was banging his chain on his -- on

11:32AM 22 Instagram live saying that that was Leverage.

11:32AM 23 Q What is Instagram live?

11:32AM 24 A A life feed on your Instagram on what you're doing.

11:32AM 25 Q So Brandon Torres was banging his chain --

11:32AM 1 A Yes.

11:32AM 2 Q -- saying it was Leverage?

11:32AM 3 A Yes.

11:32AM 4 Q Did Johnnie -- did John Stancil tell you he -- he took

11:32AM 5 that personally?

11:32AM 6 A Yes.

11:32AM 7 Q What did he say?

11:32AM 8 A He told us that that was a easy one. We should get him.

11:32AM 9 Q Was he mad about what Brandon Torres was doing?

11:33AM 10 A Yes.

11:33AM 11 Q Why?

11:33AM 12 A He didn't like that Brandon Torres was saying that was

11:33AM 13 Leverage. That was Johnnie's clothing company.

11:33AM 14 Q That was his -- the shirt we just looked at?

11:33AM 15 A Yes.

11:33AM 16 Q And what details did he provide to you about what you

11:33AM 17 could get in the robbery and where Mr. Torres was?

11:33AM 18 A Told us he was wearing a 12-millimeter Milano with a Jesus

11:33AM 19 face pendant on it and that he was at Uncle Bo's restaurant.

11:33AM 20 Q And then did you act on that?

11:33AM 21 A Yes.

11:33AM 22 Q Who were you with?

11:33AM 23 A Me, Frankie and Minn.

11:33AM 24 Q Who is Minn?

11:33AM 25 A That was one of Frankie's boys.

11:33AM 1 Q And Frankie is Frankie Silva that you've talked about?

11:33AM 2 A Yes.

11:33AM 3 Q How does the robbery go down?

11:33AM 4 A We go to Uncle Bo's. We're sitting in Uncle Bo's parking

11:33AM 5 lot. We follow them back to Waimanalo. They turn around in

11:33AM 6 one of the cul-de-sacs. Frankie jumps out and fires a round or

11:34AM 7 two. Minn jumps out with his gun and they run up and take the

11:34AM 8 chain.

11:34AM 9 Q Did they hit anyone with the bullets, if you know?

11:34AM 10 A No.

11:34AM 11 Q And you were able to get the chain?

11:34AM 12 A Yes.

11:34AM 13 Q You were the driver?

11:34AM 14 A I was sitting in the back seat.

11:34AM 15 Q Why didn't you get out?

11:34AM 16 A Because my kid's mom's brother was there.

11:34AM 17 Q Who was that?

11:34AM 18 A That was Brandon Torres's friend.

11:34AM 19 Q Okay. And do you -- are you -- do you make it out --

11:34AM 20 successfully make it off with the chain of the individual? You

11:34AM 21 get away?

11:34AM 22 A Yes.

11:34AM 23 Q Did you report back to John about what happened?

11:34AM 24 A Yes.

11:34AM 25 Q What was his reaction?

11:34AM 1 A He was happy we got 'em.

11:34AM 2 Q The next day did you learn something happened with Minn?

11:34AM 3 A Yes.

11:34AM 4 Q What happened with Minn?

11:34AM 5 A He got arrested.

11:34AM 6 Q In relation to this robbery?

11:34AM 7 A That's what we thought.

11:34AM 8 Q Okay. Did -- were you concerned when you heard that?

11:35AM 9 A Yes.

11:35AM 10 Q Did you reach out to Mr. Miske about it?

11:35AM 11 A Yes.

11:35AM 12 Q Did you tell him about the robbery?

11:35AM 13 A Yes.

11:35AM 14 Q And what did he tell you?

11:35AM 15 A To stay low. I told him we were hiding in Pearl City. He

11:35AM 16 said to stay low and we'll figure it out.

11:35AM 17 Q Were you ever prosecuted for that?

11:35AM 18 A No.

11:35AM 19 Q Is this another example of why you thought you had

11:35AM 20 protection from Michael Miske?

11:35AM 21 A Yes.

11:35AM 22 Q Have you heard of a person by the name of Chris Bourne?

11:35AM 23 A Yes.

11:35AM 24 Q Turning to 2018, did Mr. Miske talk to you about Chris

11:35AM 25 Bourne?

11:35AM 1 A Yes.

11:35AM 2 Q How did that name come up?

11:35AM 3 A I just got a call one day to come to the parking lot next

11:35AM 4 to the bay. I ended up going with Mike to look at his house.

11:36AM 5 Q Chris Bourne's house?

11:36AM 6 A Yes.

11:36AM 7 Q Okay.

11:36AM 8 A And Mike -- Mike said that was a good -- that would be a

11:36AM 9 good lick if we hit it.

11:36AM 10 Q A robbery?

11:36AM 11 A Yes.

11:36AM 12 Q Did Mr. Miske tell you what you could get?

11:36AM 13 A He said, "There was big money inside the house."

11:36AM 14 Q And did he tell you how you should do it?

11:36AM 15 A He just told us that there was big money in the house.

11:36AM 16 Q What was your plan?

11:36AM 17 A Me and Frankie were going to go over there and kick the

11:36AM 18 door in.

11:36AM 19 Q Do a home invasion-style robbery?

11:36AM 20 A Yes.

11:36AM 21 Q Did Mr. Miske say anything about how long he had known

11:36AM 22 Chris Bourne?

11:36AM 23 A He just told me that he knew Chris Bourne and that was it.

11:37AM 24 Q Did he show you a picture of Chris Bourne at any point?

11:37AM 25 A Yes.

11:37AM 1 Q What did he show you?

11:37AM 2 A A picture of Chris Bourne on the phone.

11:37AM 3 Q And did you do anything with that picture?

11:37AM 4 A I took a picture of it on my phone off of his phone.

11:37AM 5 Q Did he talk to you about the amount of money that you

11:37AM 6 thought would be at the house?

11:37AM 7 A He said a million.

11:37AM 8 Q A million dollars?

11:37AM 9 A Yes.

11:37AM 10 Q At some point, did Mr. Miske -- well, did he take you by

11:37AM 11 his house?

11:37AM 12 A Yes.

11:37AM 13 Q Where was it?

11:37AM 14 A It was by the skate park in Hawaii Kai.

11:37AM 15 Q Near Kamiloiki?

11:37AM 16 A I just know it was by a skate park in Hawaii Kai.

11:37AM 17 Q Okay. Did you also message with Mr. Miske on WhatsApp

11:37AM 18 about this home invasion robbery as well?

11:37AM 19 A Yes.

11:37AM 20 Q And you said you were planning to do it with Frankie

11:37AM 21 Silva?

11:37AM 22 A Yes.

11:37AM 23 Q At some point, did you and Frankie go to Mr. Bourne's

11:38AM 24 house?

11:38AM 25 A Yes.

11:38AM 1 Q What do you recall you were driving?

11:38AM 2 A I think we were in Frankie's black BMW.

11:38AM 3 Q Can you describe it, the BMW?

11:38AM 4 A It was just black BMW coupe tinted.

11:38AM 5 Q And where did you all park?

11:38AM 6 A We parked at the bottom of the cul-de-sac.

11:38AM 7 Q Do you recall it being in a -- the street being on a

11:38AM 8 cul-de-sac?

11:38AM 9 A Yes.

11:38AM 10 Q And what -- why were you parked there?

11:38AM 11 A We didn't want to be right outside the house. We went to

11:38AM 12 the bottom of the cul-de-sac.

11:38AM 13 Q Were you scoping out the place you were going to do the

11:38AM 14 robbery?

11:38AM 15 A Yes.

11:38AM 16 Q Did you end up not going through with this robbery?

11:38AM 17 A Yes.

11:38AM 18 Q Was this in the summer before you were arrested in 2018?

11:38AM 19 A I think so. I believe so.

11:39AM 20 MR. NAMMAR: Can we show the witness only, Your Honor,

11:39AM 21 1-555 from the original list?

11:39AM 22 THE COURT: Go ahead.

11:39AM 23 BY MR. NAMMAR:

11:39AM 24 Q Mr. Smith, 1-555 is up. Do you recognize what is shown

11:39AM 25 here?

11:39AM 1 A Yes.

11:39AM 2 Q What is shown here?

11:39AM 3 A The fuel truck that was outside of Chris Bourne's house.

11:39AM 4 Q Do you recall seeing this truck outside of Mr. Bourne's  
11:39AM 5 house when you were with Mr. Miske?

11:39AM 6 A Yes.

11:39AM 7 MR. NAMMAR: Your Honor, I move to admit 1-555.

11:39AM 8 THE COURT: Any objection?

11:39AM 9 MR. KENNEDY: No objection.

11:39AM 10 THE COURT: 1-555 is admitted then without objection.

11:39AM 11 You may publish it.

11:39AM 12 MR. NAMMAR: Thank you.

11:39AM 13 (Exhibit 1-555 was received in evidence.)

11:39AM 14 BY MR. NAMMAR:

11:39AM 15 Q The jury can see it. Mr. Smith, what are we looking at  
11:40AM 16 here?

11:40AM 17 A We are looking at the fuel truck outside of Chris Bourne's  
11:40AM 18 house.

11:40AM 19 Q And this is the house that you recall Mr. Miske took you  
11:40AM 20 in preparation for the home invasion-style robbery?

11:40AM 21 A Yes.

11:40AM 22 MR. NAMMAR: Your Honor, may we show the witness a  
11:40AM 23 couple of different exhibits now from the 13th supplemental  
11:40AM 24 list? 1-956I and 1-956Z and 1-956EE as in echo echo.

11:40AM 25 THE COURT: Go ahead. Thank you.



11:40AM 1 BY MR. NAMMAR:

11:41AM 2 Q Nine one -- 1-956I is up on the screen, Mr. Smith.

11:41AM 3 A Yes.

11:41AM 4 Q Do you -- do you recognize it?

11:41AM 5 A Yes.

11:41AM 6 Q Who is the person shown here?

11:41AM 7 A Chris Bourne.

11:41AM 8 MR. NAMMAR: Can we show one -- can we bring up

11:41AM 9 1-956Z?

11:41AM 10 BY MR. NAMMAR:

11:41AM 11 Q Do you recognize what's shown here?

11:41AM 12 A Yes.

11:41AM 13 Q What is shown here?

11:41AM 14 A Chris Bourne.

11:41AM 15 Q Do you recall saving a picture of this on your phone?

11:41AM 16 A Yes.

11:41AM 17 MR. NAMMAR: Can we bring up 1-956EE?

11:41AM 18 BY MR. NAMMAR:

11:41AM 19 Q What is shown here?

11:41AM 20 A The fuel truck.

11:41AM 21 Q And do you recognize the shorts or pants there in the  
11:41AM 22 background of this picture?

11:41AM 23 A Yes.

11:41AM 24 Q Whose are those?

11:41AM 25 A That's me.

11:41AM 1 MR. NAMMAR: Your Honor, I move to admit 1-956I,

11:42AM 2 1-956Z and 1-956EE.

11:42AM 3 THE COURT: Any objection to any of those three

11:42AM 4 exhibits?

11:42AM 5 MR. KENNEDY: No objection.

11:42AM 6 THE COURT: Without objection those three exhibits are

11:42AM 7 each admitted 1-956I, Z and EE. You may publish.

11:42AM 8 (Exhibit 1-956I, 1-956Z and 1-956EE were received in evidence.)

11:42AM 9 MR. NAMMAR: Thank you. We can start with 956I.

11:42AM 10 BY MR. NAMMAR:

11:42AM 11 Q What is shown here?

11:42AM 12 A A picture of Chris Bourne.

11:42AM 13 Q And did you take a picture of this phone on your phone?

11:42AM 14 A Yes.

11:42AM 15 Q Why did you do that?

11:42AM 16 A Mike told me to take a picture of it so I could see what

11:42AM 17 he would look like.

11:42AM 18 Q And was that done in preparation of the robbery?

11:42AM 19 A Yes.

11:42AM 20 MR. NAMMAR: Can we show one nine -- 1-956Z?

11:42AM 21 BY MR. NAMMAR:

11:43AM 22 Q Do you recognize what is shown here?

11:43AM 23 A Yes.

11:43AM 24 Q What is shown here?

11:43AM 25 A Another picture of Chris Bourne.

11:43AM 1 Q And his family?

11:43AM 2 A Yes.

11:43AM 3 Q Was this taken in preparation of the robbery?

11:43AM 4 A Yes.

11:43AM 5 MR. NAMMAR: Can we show 1-956EE now or publish that?

11:43AM 6 Sorry.

11:43AM 7 THE COURT: Go ahead.

11:43AM 8 BY MR. NAMMAR:

11:43AM 9 Q Do you -- do you recognize what is shown here?

11:43AM 10 A Yes.

11:43AM 11 Q What is shown here?

11:43AM 12 A The fuel truck outside of Chris Bourne's house.

11:43AM 13 Q And is this a photo of a phone?

11:43AM 14 A Yes.

11:43AM 15 Q Okay. Do you know whose phone that is?

11:43AM 16 A It was Mike's phone.

11:43AM 17 Q And why are you taking a picture of Mike's phone?

11:43AM 18 A He gave me the phone to take a picture of to put into my  
11:43AM 19 phone.

11:43AM 20 Q And the shorts that are in the background?

11:43AM 21 A That's mine.

11:43AM 22 Q And where did you believe you are when this photo is  
11:44AM 23 taken?

11:44AM 24 A I think we were in the truck.

11:44AM 25 Q Whose truck?

11:44AM 1 A Mike's truck.

11:44AM 2 Q And was this photo taken in preparation of the robbery?

11:44AM 3 A Yes.

11:44AM 4 Q Does this photo look very similar to the photo that we  
11:44AM 5 looked at previously 1-555?

11:44AM 6 A Yes.

11:44AM 7 MR. NAMMAR: Let me bring that up again, 1-555. Can  
11:44AM 8 we publish that, Your Honor?

11:44AM 9 THE COURT: Yes.

11:44AM 10 BY MR. NAMMAR:

11:44AM 11 Q Does that look like the same photo?

11:44AM 12 A Yes.

11:44AM 13 Q Only in this one you're taking a picture of his phone,  
11:44AM 14 correct?

11:44AM 15 A Yes.

11:44AM 16 Q Or the other one, excuse me. And 956EE you were taking a  
11:44AM 17 picture of Miske's phone, right?

11:44AM 18 A Yes.

11:44AM 19 MR. NAMMAR: Can we bring back up 956I?

11:44AM 20 BY MR. NAMMAR:

11:44AM 21 Q Do you know whose phone you're taking a picture of here?

11:44AM 22 A Mike's phone.

11:45AM 23 MR. NAMMAR: Can we show the witness only now, Your  
11:45AM 24 Honor, 1-947 from the original list?

11:45AM 25 THE COURT: I'm sorry. Go ahead.

11:45AM 1 BY MR. NAMMAR:

11:45AM 2 Q Okay. Do you -- this is another preliminary device

11:45AM 3 report. And it has an iCloud backup that I just circled there

11:46AM 4 with an email address. Do you recognize the -- the intent 2/11

11:46AM 5 email?

11:46AM 6 A Yes.

11:46AM 7 Q Was that yours?

11:46AM 8 A Yes.

11:46AM 9 Q Do you believe this preliminary device extraction was for

11:46AM 10 one of the phones you had?

11:46AM 11 A Yes.

11:46AM 12 MR. NAMMAR: Your Honor, I move to admit 1-947.

11:46AM 13 THE COURT: Any objection?

11:46AM 14 MR. KENNEDY: No objection.

11:46AM 15 THE COURT: 1-947 then is admitted without objection.

11:46AM 16 You may publish.

11:46AM 17 MR. NAMMAR: Thank you.

11:46AM 18 (Exhibit 1-947 was received in evidence.)

11:46AM 19 MR. NAMMAR: So the jury can see it, we're looking at

11:46AM 20 a preliminary device report. Can you zoom in on that email?

11:46AM 21 BY MR. NAMMAR:

11:46AM 22 Q The apple ID comes back to the intent 211 at iCloud dot

11:46AM 23 com. Did you believe you used that apple ID at one point?

11:46AM 24 A Yes.

11:46AM 25 MR. NAMMAR: And if we can zoom out and go to the --

11:46AM 1 this phone number.

11:46AM 2 BY MR. NAMMAR:

11:46AM 3 Q Sounds like you had a lot of different phones; is that

11:47AM 4 right, Mr. -- Mr. Smith?

11:47AM 5 A Yes.

11:47AM 6 Q Do you recognize this number 376-856 (verbatim) as one of

11:47AM 7 yours?

11:47AM 8 A Yes.

11:47AM 9 Q It was one of yours?

11:47AM 10 A Yes.

11:47AM 11 MR. NAMMAR: Can we show the witness only now 1-956

11:47AM 12 from the original list?

11:47AM 13 THE COURT: Go ahead.

11:47AM 14 BY MR. NAMMAR:

11:47AM 15 Q Mr. Smith, this is an image report from the same phone.

11:47AM 16 It has a number of thumbnails. Do you --

11:47AM 17 MR. NAMMAR: If we can just scroll through it and stop

11:47AM 18 on page four.

11:47AM 19 BY MR. NAMMAR:

11:47AM 20 Q Do you recognize some of these photos as photos that you

11:48AM 21 took or captured from that phone?

11:48AM 22 A Yes.

11:48AM 23 Q And if we look at the photo in Box 9, what is that a photo

11:48AM 24 of?

11:48AM 25 A Chris Bourne.

11:48AM 1 MR. NAMMAR: Your Honor, I would move to admit 1-956

11:48AM 2 at this time.

11:48AM 3 THE COURT: Any objection?

11:48AM 4 MR. KENNEDY: No objection.

11:48AM 5 THE COURT: 1-956 is admitted. You may publish.

11:48AM 6 (Exhibit 1-956 was received in evidence.)

11:48AM 7 MR. NAMMAR: Thank you. We can go to Box 7 or sorry,

11:48AM 8 page seven, Box 21. And zoom in on that.

11:48AM 9 BY MR. NAMMAR:

11:48AM 10 Q Do you recognize the little thumbnail picture on the

11:48AM 11 right, Mr. Smith?

11:48AM 12 A Yes.

11:48AM 13 Q Is that of Mr. Bourne?

11:48AM 14 A Yes.

11:48AM 15 Q And it has a capture time of for this photo of May 6,

11:48AM 16 2018. Do you see that?

11:48AM 17 A Yes.

11:48AM 18 Q Is that around the time that you recall talking to

11:49AM 19 Mr. Miske about the Chris Bourne robbery?

11:49AM 20 A I'm pretty sure.

11:49AM 21 MR. NAMMAR: And if we can go now to box -- page nine,

11:49AM 22 Box 26.

11:49AM 23 BY MR. NAMMAR:

11:49AM 24 Q Do you recognize the thumbnail photo on the right?

11:49AM 25 A Yes.

11:49AM 1 Q And it has a capture date with the same date, May 6, 2018.

11:49AM 2 Do you see that?

11:49AM 3 A Yes.

11:49AM 4 Q And that's around the same time you recall talking to

11:49AM 5 Mr. Miske about the robbery?

11:49AM 6 A Yes.

11:49AM 7 Q If we go now to page 11, Box 32. Do you recognize the

11:49AM 8 thumbnail photo on the right?

11:49AM 9 A Yes.

11:49AM 10 Q Is that the same one we looked at that you took of a phone

11:49AM 11 in the car with your shorts in the background?

11:49AM 12 A Yes.

11:49AM 13 Q That had Mr. Bourne's gas truck?

11:50AM 14 A Yes.

11:50AM 15 Q And this has a different date of May 27, 2018. Is that

11:50AM 16 around the same time that you recall talking to Mr. Miske about

11:50AM 17 this topic?

11:50AM 18 A Yes.

11:50AM 19 MR. NAMMAR: We can take that down.

11:50AM 20 BY MR. NAMMAR:

11:50AM 21 Q Did Mr. Miske also task you with assaulting somebody by

11:50AM 22 the name of Jason Smith?

11:50AM 23 A Yes.

11:50AM 24 Q What did you know about Jason Smith?

11:50AM 25 A I just knew we would see him at the chicken fights.



11:50AM 1 Q Did you talk with Mr. Miske about assaulting Jason Smith

11:50AM 2 over WhatsApp?

11:50AM 3 A Yes.

11:50AM 4 Q Was this also in 2018?

11:50AM 5 A Yes.

11:50AM 6 Q What did Mr. Miske ask you to do with respect to Jason

11:51AM 7 Smith?

11:51AM 8 A He said to light him up if I seen him at the fights.

11:51AM 9 Q And what did you understand "to light him up" mean?

11:51AM 10 A To beat him up.

11:51AM 11 Q And what -- the fights, what does that refer to?

11:51AM 12 A The chicken fights.

11:51AM 13 MR. NAMMAR: If we can show one -- publish 1-956

11:51AM 14 again?

11:51AM 15 THE COURT: Yes, go ahead.

11:51AM 16 MR. NAMMAR: And go to Box 16 -- excuse me, yeah,

11:51AM 17 Box 16. Which is page six, yeah.

11:51AM 18 BY MR. NAMMAR:

11:51AM 19 Q It's a thumbnail photo but do you recognize the thumbnail

11:51AM 20 photo on the right-hand side?

11:51AM 21 A Yes.

11:51AM 22 Q Who is that of?

11:51AM 23 A That was the guy Jason Smith.

11:51AM 24 Q Did Mr. Miske send this to you?

11:51AM 25 A Yes.

11:51AM 1 MR. NAMMAR: Your Honor, can we show the witness only  
11:51AM 2 now 1-956P as in Paul?  
11:52AM 3 THE COURT: Go ahead.  
11:52AM 4 BY MR. NAMMAR:  
11:52AM 5 Q Do you recognize this photo?  
11:52AM 6 A Yes.  
11:52AM 7 Q What is it of?  
11:52AM 8 A The guy Jason Smith.  
11:52AM 9 MR. NAMMAR: Your Honor, I move to admit 1-956P.  
11:52AM 10 THE COURT: Any objection?  
11:52AM 11 MR. KENNEDY: No objection.  
11:52AM 12 THE COURT: That Exhibit 1-956P as in Paul is  
11:52AM 13 admitted. You may publish.  
11:52AM 14 MR. NAMMAR: Thank you.  
11:52AM 15 (Exhibit 1-956P was received in evidence.)  
11:52AM 16 BY MR. NAMMAR:  
11:52AM 17 Q Mr. Smith, the jury can see. Who are we looking at here?  
11:52AM 18 A Jason Smith.  
11:52AM 19 Q And this is the person that you said Mr. Miske wanted you  
11:52AM 20 to assault?  
11:52AM 21 A Yes.  
11:52AM 22 Q Do you recall if he said why?  
11:52AM 23 A If he says -- what?  
11:52AM 24 Q Do you recall why he wanted him assaulted?  
11:52AM 25 A I just -- I'm not sure. I'm not too sure why.

11:52AM 1 Q Did you agree to do it though?

11:52AM 2 A Yes.

11:52AM 3 MR. NAMMAR: Can we show the witness only 1-953 at

11:53AM 4 this time from the original list?

11:53AM 5 THE COURT: Go ahead.

11:53AM 6 MR. NAMMAR: Thank you. And if we can just -- for the

11:53AM 7 witness just scroll through the first couple pages. Can we go

11:53AM 8 back to page one and highlight the participants?

11:53AM 9 BY MR. NAMMAR:

11:53AM 10 Q Do you recognize the contact under -- above MM?

11:53AM 11 A Yes.

11:53AM 12 Q Who is that?

11:53AM 13 A Mike.

11:53AM 14 Q Mike Miske?

11:53AM 15 A Yes.

11:53AM 16 Q And do you recognize the number there?

11:54AM 17 A Yes.

11:54AM 18 Q 228-7500?

11:54AM 19 A Yes.

11:54AM 20 Q Whose number was that?

11:54AM 21 A Mike's.

11:54AM 22 Q And the number below that, was that your number that we

11:54AM 23 just looked at?

11:54AM 24 A Yes.

11:54AM 25 Q And have you reviewed this series of WhatsApp messages

11:54AM 1 before you testified?

11:54AM 2 A Yes.

11:54AM 3 Q Are there hundreds of messages between you and Mr. Miske?

11:54AM 4 A Yes.

11:54AM 5 Q And do you all discuss a number of different topics?

11:54AM 6 A Yes.

11:54AM 7 Q Are the majority of the messages concerning a dispute or  
11:54AM 8 feud with Lindsey Kinney?

11:54AM 9 A Yes.

11:54AM 10 Q Are a lot of them also about assaulting Lindsey Kinney?

11:54AM 11 A Yes.

11:54AM 12 Q Are some of the messages concerning whether Lance Bermudez  
11:54AM 13 is cooperating?

11:54AM 14 A Yes.

11:54AM 15 Q Are some of the messages -- messages also about Chris  
11:54AM 16 Bourne?

11:54AM 17 A Yes.

11:54AM 18 Q Are some of the messages concerning Aloha Tattoo?

11:54AM 19 A Yes.

11:54AM 20 Q Are some of the messages concerning Ryan Teramoto and an  
11:54AM 21 assault of Ryan Teramoto?

11:54AM 22 A Yes.

11:55AM 23 Q Are some of the messages concerning Jared Spiker?

11:55AM 24 A Yes.

11:55AM 25 Q And are some of the messages concerning the assault on

11:55AM 1 Jason Smith?

11:55AM 2 A Yes.

11:55AM 3 MR. NAMMAR: Your Honor, I move to admit 1-953.

11:55AM 4 THE COURT: Any objection, Counsel?

11:55AM 5 MR. KENNEDY: No objection.

11:55AM 6 THE COURT: 1-953 then is admitted without objection.

11:55AM 7 You may publish.

11:55AM 8 (Exhibit 1-953 was received in evidence.)

11:55AM 9 MR. NAMMAR: May we go to -- well, let's start on page  
11:55AM 10 one. If we could zoom in on participants.

11:55AM 11 BY MR. NAMMAR:

11:55AM 12 Q And MM in the 228-7500 number, who do you understand that  
11:55AM 13 to be?

11:55AM 14 A Mike.

11:55AM 15 Q And the number below that, whose number is that?

11:55AM 16 A Mine.

11:55AM 17 Q If we go to the zoom out now. Can we zoom in on the first  
11:55AM 18 page or the first message?

11:55AM 19 It says, "Messages and calls are end to end encrypted.  
11:56AM 20 No one outside of this chat, not even WhatsApp can read it."

11:56AM 21 Do you see that?

11:56AM 22 A Yes.

11:56AM 23 Q Is this your understanding or are these WhatsApp  
11:56AM 24 communications?

11:56AM 25 A Yes.

11:56AM 1 Q And was your understanding from reading this that they  
11:56AM 2 were going to be encrypted?

11:56AM 3 A Yes.

11:56AM 4 Q And did you also talk to Mike about the fact that they  
11:56AM 5 were encrypted?

11:56AM 6 A Yes.

11:56AM 7 Q What did he say about it?

11:56AM 8 A He said that to communicate through this because they  
11:56AM 9 couldn't read our messages.

11:56AM 10 MR. NAMMAR: Can we start on page 458? And if we  
11:56AM 11 could zoom in on the last two messages.

11:56AM 12 THE COURT: Mr. Kennedy, do you have this exhibit  
11:56AM 13 page?

11:57AM 14 MR. KENNEDY: Not on the screen, Your Honor.

11:57AM 15 MR. NAMMAR: I'm sorry. It's 458 in the sender bottom  
11:57AM 16 number, Your Honor.

11:57AM 17 THE COURT: I don't have it --

11:57AM 18 MR. NAMMAR: Okay.

11:57AM 19 THE COURT: -- so you can -- you can address this  
11:57AM 20 later on. Go ahead.

11:57AM 21 MR. NAMMAR: Okay.

11:57AM 22 THE COURT: Main concern is Mr. Kennedy can see it.

11:57AM 23 MR. KENNEDY: I can see it on the screen, Your Honor.

11:57AM 24 THE COURT: All right. Thank you.

11:57AM 25 MR. KENNEDY: I don't know that I -- whether I have it

11:57AM 1 or not but I can see it on the screen.

11:57AM 2 BY MR. NAMMAR:

11:57AM 3 Q So the first message Jason Smith do you see that?

11:57AM 4 A Yes.

11:57AM 5 Q Always go fights.

11:57AM 6 Is that from Mr. Miske?

11:57AM 7 A Yes.

11:57AM 8 Q And then the response, you are asking him who's that?

11:57AM 9 A Yes.

11:57AM 10 MR. NAMMAR: And then if we can go to the next page.

11:57AM 11 BY MR. NAMMAR:

11:57AM 12 Q And does Mr. Miske tell you he'll try to get a picture?

11:57AM 13 A Yes.

11:57AM 14 Q And then your response is you say, K, and then LMK. What  
11:58AM 15 does that stand for?

11:58AM 16 A Let me know.

11:58AM 17 MR. NAMMAR: Okay. If we go to the next page.

11:58AM 18 BY MR. NAMMAR:

11:58AM 19 Q Is this Mr. Miske in the blue?

11:58AM 20 A Yes.

11:58AM 21 Q He's saying, fuck him?

11:58AM 22 A Yes.

11:58AM 23 Q If you see him at the fights?

11:58AM 24 A Yes.

11:58AM 25 Q What does "the fights" refer to?

11:58AM 1 A The chicken fights.

11:58AM 2 Q And your response is, I don't know who that is. Send me a  
11:58AM 3 pic?

11:58AM 4 A Yes.

11:58AM 5 Q Going down. If you got one burner, try call him.  
11:58AM 6 Do you see that?

11:58AM 7 A Yes.

11:58AM 8 Q Do you know what "burner" referred to?

11:58AM 9 A To the throwaway phones.

11:58AM 10 Q And then it goes on to say, Russ know who that is.  
11:58AM 11 Do you see that?

11:58AM 12 A Yes.

11:58AM 13 Q Who is Russ?

11:58AM 14 A Russell Boy.

11:58AM 15 Q Russell Moscato?

11:58AM 16 A Yes.

11:58AM 17 Q And if we go to the next page, you ask what happened?  
11:59AM 18 And he tells you, talking heavy.  
11:59AM 19 What does that mean?

11:59AM 20 A That he was talking tough to Mike.

11:59AM 21 Q If we can go to the next page. You ask how you guys know  
11:59AM 22 each other?

11:59AM 23 MR. NAMMAR: Keep going down.

11:59AM 24 BY MR. NAMMAR:

11:59AM 25 Q What he talking heavy on?



11:59AM 1 And his response is, me.

11:59AM 2 Do you see that?

11:59AM 3 A Yes.

11:59AM 4 Q Keep going down. And his response is, but he no like me.

11:59AM 5 You see that?

11:59AM 6 A Yes.

11:59AM 7 MR. NAMMAR: Keep going down. One more down.

11:59AM 8 BY MR. NAMMAR:

11:59AM 9 Q He always stay at the fights?

11:59AM 10 You're referring to the chicken fights?

11:59AM 11 A Yes.

11:59AM 12 MR. NAMMAR: Keep going down. Keep going down. Stop.

11:59AM 13 BY MR. NAMMAR:

11:59AM 14 Q Do you recognize this thumbnail right there?

11:59AM 15 A Yes.

11:59AM 16 Q Is that the same picture we just looked at?

11:59AM 17 A Yes.

12:00PM 18 Q Is that a picture of Jason Smith?

12:00PM 19 A Yes.

12:00PM 20 MR. NAMMAR: Keep going down.

12:00PM 21 BY MR. NAMMAR:

12:00PM 22 Q LMAO, what does that mean?

12:00PM 23 A Laughing my ass off.

12:00PM 24 MR. NAMMAR: Keep going down.

12:00PM 25 BY MR. NAMMAR:

12:00PM 1 Q You ask, why is he talking shit?

12:00PM 2 Is that you in green?

12:00PM 3 A Yes.

12:00PM 4 MR. NAMMAR: Keep going down. Keep going down. Okay.

12:00PM 5 Stop here.

12:00PM 6 BY MR. NAMMAR:

12:00PM 7 Q Mr. Miske tells you, I call him trying to be nice, trying  
12:00PM 8 to lure him to me.

12:00PM 9 What does that refer to?

12:00PM 10 A He said he was trying to talk to him, get him to meet up.

12:00PM 11 Q He tells you, figure if you see him couple slaps, okay.

12:00PM 12 Do you see that?

12:00PM 13 A Yes.

12:00PM 14 Q What does that mean to you?

12:01PM 15 A If I see him, slap him.

12:01PM 16 Q What's the different between slap and smash?

12:01PM 17 A He just wanted me to slap him couple of times. Smash him  
12:01PM 18 is like just pounding him.

12:01PM 19 Q So it's a different level of assault?

12:01PM 20 A Yes.

12:01PM 21 MR. NAMMAR: Keep going down.

12:01PM 22 Q And then he tells -- you -- you tell him, I'll slap him?

12:01PM 23 A Yes.

12:01PM 24 MR. NAMMAR: And then go down.

12:01PM 25 BY MR. NAMMAR:

12:01PM 1 Q He says, Jason Smith, he owned Menehune Termite.

12:01PM 2 Do you see that?

12:01PM 3 A Yes.

12:01PM 4 Q Did you know what that was?

12:01PM 5 A No.

12:01PM 6 MR. NAMMAR: Keep going down.

12:01PM 7 BY MR. NAMMAR:

12:01PM 8 Q You say YWD.

12:01PM 9 Is that what -- what you doing?

12:01PM 10 A Yes.

12:01PM 11 Q And response is, bay.

12:01PM 12 Do you see that?

12:01PM 13 A Yes.

12:01PM 14 Q What does "bay" refer to?

12:01PM 15 A The bay that we were cruising at.

12:02PM 16 Q In Hawaii Kai?

12:02PM 17 A Yes.

12:02PM 18 Q And then you say if you see him, I'm going to lick him in

12:02PM 19 the face.

12:02PM 20 What does "lick" mean?

12:02PM 21 A I might kick him.

12:02PM 22 MR. NAMMAR: Keep going down.

12:02PM 23 BY MR. NAMMAR:

12:02PM 24 Q You might kick him?

12:02PM 25 A Yes.

12:02PM 1 Q And then you say, kick here.

12:02PM 2 And his response is, yeah double exclamation mark?

12:02PM 3 Is that -- was that your signature to kick people?

12:02PM 4 A Yes.

12:02PM 5 Q In the face?

12:02PM 6 A Yes.

12:02PM 7 MR. NAMMAR: We can stop there. We can take that

12:02PM 8 down.

12:02PM 9 BY MR. NAMMAR:

12:02PM 10 Q Now, I want to switch gears and talk about a different

12:02PM 11 topic. Right before -- couple of months before you were

12:02PM 12 arrested, do you recall helping Dae Han Moon out with some

12:03PM 13 drugs?

12:03PM 14 A Yes.

12:03PM 15 Q Where was Dae Han Moon at the time?

12:03PM 16 A He was at OCCC.

12:03PM 17 Q And did he contact you?

12:03PM 18 A Yes.

12:03PM 19 Q How was he able to contact you from OCCC?

12:03PM 20 A He had a phone.

12:03PM 21 Q Was this an approved phone?

12:03PM 22 A No.

12:03PM 23 Q Did he let you know how he got that phone in there?

12:03PM 24 A Through a cop.

12:03PM 25 Q And did you agree to help Mr. Moon?

12:03PM 1 A Yes.

12:03PM 2 Q How did you agree to help him?

12:03PM 3 A I told him that he could have his people call Timmy and

12:03PM 4 they can figure out how to get the drugs.

12:03PM 5 Q So you passed him along to Timmy?

12:03PM 6 A Yes.

12:03PM 7 Q And who was Timmy again?

12:03PM 8 A He was a boy I used to give drugs to.

12:03PM 9 Q Did you understand which guard they were going to use to

12:03PM 10 do that?

12:03PM 11 A Not at that time.

12:03PM 12 Q Okay. Did you later learn?

12:03PM 13 A Yes.

12:03PM 14 Q Who did you learn, which guard?

12:04PM 15 A John Estabilio.

12:04PM 16 Q Who was that?

12:04PM 17 A That was Lance's friend.

12:04PM 18 Q Is that somebody that you had had interaction with at

12:04PM 19 OCCC?

12:04PM 20 A Yes.

12:04PM 21 Q Would he give you guys certain privileges that you weren't

12:04PM 22 supposed to have?

12:04PM 23 A Yes.

12:04PM 24 Q Like what?

12:04PM 25 A He would let us use his phone or watch videos on his

12:04PM 1 phone.

12:04PM 2 MR. NAMMAR: Can we show the witness only now, Your

12:04PM 3 Honor, 1-960 from the original list?

12:04PM 4 BY MR. NAMMAR:

12:04PM 5 Q Mr. Smith, do you recognize what is up on the screen at

12:04PM 6 1-960?

12:04PM 7 A Yes.

12:04PM 8 Q What's up on the screen?

12:04PM 9 A Dae Han messaging me.

12:05PM 10 Q Did you review these texts prior to testifying?

12:05PM 11 A Yes.

12:05PM 12 Q Are these texts about the drug transaction that you've

12:05PM 13 just told us about?

12:05PM 14 A Yes.

12:05PM 15 MR. NAMMAR: Your Honor, I move to admit 1-960.

12:05PM 16 THE COURT: Any objection?

12:05PM 17 MR. KENNEDY: Your Honor, could we just approach

12:05PM 18 briefly?

12:05PM 19 THE COURT: Yes.

12:05PM 20 (Sidebar on the record:)

12:05PM 21 MR. KENNEDY: Your Honor, I'm just checking to see. I

12:05PM 22 think I was sent something this morning as I was driving in.

12:05PM 23 It was 1-960, and I didn't know if we're looking at the one

12:05PM 24 that was sent to me while I was driving or his --

12:05PM 25 MR. NAMMAR: I should have told you that. So what I

12:05PM 1 did was I took out about 45 pages. All the original pages you  
12:05PM 2 have, I just reduced it a lot.

12:05PM 3 MR. KENNEDY: Okay. Because I didn't have time to  
12:05PM 4 look at them while I was driving.

12:05PM 5 MR. NAMMAR: Okay. And I -- I apologize for not  
12:06PM 6 bringing that up because it's -- it was so voluminous that I  
12:06PM 7 wanted to just narrow it down.

12:06PM 8 MR. KENNEDY: On the other that His Honor indicated  
12:06PM 9 that he didn't have a copy of, do we just have a place holder  
12:06PM 10 or do we actually have the exhibit?

12:06PM 11 THE COURT: No. I have a copy of it but it is -- I --  
12:06PM 12 I didn't know until Mr. Nammar started questioning the witness  
12:06PM 13 about it that my copy appears to be incomplete because you  
12:06PM 14 asked immediately after admitting the exhibit for the witness  
12:06PM 15 to turn to page 458 I think it was. My copy ends at page 300.

12:06PM 16 MR. NAMMAR: I'm sorry about that.

12:06PM 17 THE COURT: So that was --

12:06PM 18 MR. KENNEDY: And I have no idea what -- when ours  
12:06PM 19 ends, but if I could check that, you know, at some point before  
12:06PM 20 next week.

12:06PM 21 THE COURT: Yes.

12:06PM 22 MR. KENNEDY: I can see if you got it and I got it and  
12:06PM 23 we can get on that page. Because I know there was a number of  
12:06PM 24 place holders but I do remember the text as I was coming in on  
12:06PM 25 the phone or the email so I didn't know so this is -- the one

12:06PM 1 you're showing him is the one that you texted me this morning?

12:06PM 2 MR. NAMMAR: Yes.

12:06PM 3 MR. KENNEDY: Okay. And how many pages is it?

12:06PM 4 MR. NAMMAR: About ten I think.

12:07PM 5 MR. KENNEDY: I'll just take a quick look at it.

12:07PM 6 MR. NAMMAR: Okay, okay.

12:07PM 7 THE COURT: And is my copy of this particular exhibit  
12:07PM 8 been reduced in the way you just --

12:07PM 9 MR. NAMMAR: Yeah, it should be. I'll -- I'll -- I'll  
12:07PM 10 double check.

12:07PM 11 THE COURT: All right. Thank you.

12:07PM 12 (End of side bar.)

12:07PM 13 MR. NAMMAR: We could just scroll through it for  
12:07PM 14 everybody. Okay. That's it. 16 pages.

12:08PM 15 MR. KENNEDY: Okay.

12:08PM 16 No objection, Your Honor.

12:08PM 17 THE COURT: All right. Without objection 1-960 is  
12:08PM 18 admitted and you may publish.

12:08PM 19 MR. NAMMAR: Thank you.

12:08PM 20 (Exhibit 1-960 was received in evidence.)

12:08PM 21 MR. NAMMAR: If we could zoom in on the first page.

12:08PM 22 BY MR. NAMMAR:

12:08PM 23 Q So the first message is -- oh, it's dated July 10, 2018.

12:08PM 24 Do you see that?

12:08PM 25 A Yes.



12:08PM 1 Q Jakie, what you doing Bro? This Dae Dae.

12:08PM 2 You see that?

12:08PM 3 A Yes.

12:08PM 4 Q Who do you believe that to be?

12:08PM 5 A Dae Han.

12:08PM 6 Q And then if we go to page six now. He's saying -- is this

12:08PM 7 Dae Han saying, my new number with the smiley face?

12:08PM 8 A Yes.

12:08PM 9 Q And then you're in blue. "You the man. How you got 'em"?

12:08PM 10 A Yes.

12:08PM 11 Q Going to page seven. His response is, "Got one good

12:09PM 12 braddah working here, LOL"?

12:09PM 13 A Yes.

12:09PM 14 Q What did you take that to mean?

12:09PM 15 A There was a cop in there they had working over there.

12:09PM 16 Q Someone that could help him smuggle in a phone?

12:09PM 17 A Yes.

12:09PM 18 Q We can go to page eight. Bro, how much for a half ounce?

12:09PM 19 Do you see that?

12:09PM 20 A Yes.

12:09PM 21 Q What is that referring to?

12:09PM 22 A A half ounce of dope.

12:09PM 23 Q What kind of dope?

12:09PM 24 A Ice.

12:09PM 25 Q And if you go down or go to the next message, sorry, next

12:09PM 1 page. You respond, 250.

12:09PM 2 Do you see that?

12:09PM 3 A Yes.

12:09PM 4 Q What is it -- is that the going rate for a half ounce?

12:09PM 5 A At the time.

12:10PM 6 Q \$250?

12:10PM 7 A Yes.

12:10PM 8 Q And if we go now to page 11, is this Dae Han talking?

12:10PM 9 A Yes.

12:10PM 10 Q Can I give my friend's girl your number to come grab the

12:10PM 11 half but she gonna you 300 but just give her the half in one

12:10PM 12 bag.

12:10PM 13 Do you see that?

12:10PM 14 A Yes.

12:10PM 15 Q And does it -- go to the next page. And then does it go

12:10PM 16 on to say, she gonna give you your 300 but just give her the

12:10PM 17 half in one bag and whatever for the other.

12:10PM 18 Do you see that?

12:10PM 19 A Yes.

12:10PM 20 Q And then if we go now to page ten. At the top, 50 in

12:10PM 21 another bag.

12:10PM 22 Is this just a continuation of the message?

12:10PM 23 A Yes.

12:11PM 24 Q What -- what's being discussed here?

12:11PM 25 A He just wants a half ounce.

12:11PM 1 Q And he's giving you instructions on how it should be  
12:11PM 2 packaged?  
12:11PM 3 A There was a remaining 50. And he said put the other 50 in  
12:11PM 4 the other bag.  
12:11PM 5 Q And if we go to page 14. You're in blue and you pass off  
12:11PM 6 a number. Do you know which number you're sending him?  
12:11PM 7 A Yes.  
12:11PM 8 Q Whose number was that?  
12:11PM 9 A I'm telling him to call Timmy.  
12:11PM 10 Q Why are you telling him to do that?  
12:11PM 11 A Because I don't hold the dope, Timmy does.  
12:11PM 12 Q And did you follow up with Timmy to see whether or not the  
12:11PM 13 transaction occurred?  
12:11PM 14 A Yes.  
12:11PM 15 Q What did he tell you?  
12:11PM 16 A He told me he took care of it.  
12:11PM 17 MR. NAMMAR: We can take that down.  
12:11PM 18 BY MR. NAMMAR:  
12:11PM 19 Q The term "ACO," do you know what that stands for?  
12:12PM 20 A Yes.  
12:12PM 21 Q What?  
12:12PM 22 A It's for a corrections officer.  
12:12PM 23 Q Can you pull the mic just a little closer to you?  
12:12PM 24 A It's for the corrections officer.  
12:12PM 25 Q And is that the way that you understand -- you understood

12:12PM 1 Mr. Moon to be getting the drugs into prison?

12:12PM 2 A Yes.

12:12PM 3 Q And this was OCCC?

12:12PM 4 A Yes.

12:12PM 5 Q Did you have a separate phone conversation with Mr. Miske  
12:12PM 6 about -- well, let me strike that. Let me rephrase that.

12:12PM 7 Did you ever talk with Mr. Miske about a corrections  
12:12PM 8 officer at OCCC?

12:12PM 9 A Yes.

12:12PM 10 Q Which particular corrections officer?

12:12PM 11 A He just told me he had his friend that worked in OCCC. A  
12:12PM 12 friend ended up coming to me one day. His name was Scott.

12:12PM 13 Q A guard ended up coming up to you at OCCC?

12:13PM 14 A Yes.

12:13PM 15 Q And Miske had told you at some point that he had a friend  
12:13PM 16 that worked there as a guard?

12:13PM 17 A Yes.

12:13PM 18 Q And where did the -- where did the guard approach you?

12:13PM 19 A We were going out for rec and he came on to the rec yard.

12:13PM 20 Q This is the ACO?

12:13PM 21 A Yes.

12:13PM 22 Q What did he say to you?

12:13PM 23 A He asked me --

12:13PM 24 MR. KENNEDY: Objection, hearsay.

12:13PM 25 MR. NAMMAR: Not for the truth.

12:13PM 1 THE COURT: This is -- I'm -- I'm a little bit lost.

12:13PM 2 Is this while the witness was incarcerated at some point now?

12:13PM 3 MR. NAMMAR: Yes. In -- at OCCC.

12:13PM 4 THE COURT: The objection is overruled. Go ahead.

12:13PM 5 THE WITNESS: I was at the rec yard and he came up to

12:13PM 6 me in the rec yard and asked me if I was Mike's boy and if I

12:13PM 7 wanted to move to his module that he was working in the 18.

12:13PM 8 BY MR. NAMMAR:

12:13PM 9 Q Okay. And just so I set the scene a little bit better,

12:13PM 10 when are you -- this is when you already know Miske, correct?

12:13PM 11 A Yes.

12:13PM 12 Q And you're incarcerated at OCCC?

12:13PM 13 A Yes.

12:13PM 14 Q Do -- do you know about what -- you talked about going in

12:14PM 15 on a violation in '16. Do you believe it was around 2016 time

12:14PM 16 frame?

12:14PM 17 A I'm not sure what time it was around.

12:14PM 18 Q Okay. But it was obviously before you went into federal

12:14PM 19 custody in 2018, right?

12:14PM 20 A Yes.

12:14PM 21 Q Okay. So it was sometime around '16 or '17 or '18?

12:14PM 22 A Yes.

12:14PM 23 Q When you were at OCCC?

12:14PM 24 A Yes.

12:14PM 25 Q And you're in the rec yard, and this ACO approaches you

12:14PM 1 and says, "I hear you're Mike's boy"?

12:14PM 2 A He just asked me if I was Mike's boy and he asked me if I  
12:14PM 3 wanted to move to his module because they ate better over  
12:14PM 4 there.

12:14PM 5 Q Okay. And what did he mean by that, if you know, the  
12:14PM 6 module, moving modules?

12:14PM 7 A He just -- he was going to move me housing units from the  
12:14PM 8 current unit I was at to the unit that he was in.

12:14PM 9 Q Would that have been better for you?

12:14PM 10 A It would have been.

12:14PM 11 Q Why?

12:14PM 12 A Because they eat better in that unit.

12:14PM 13 Q The food is better?

12:14PM 14 A Because there is more food.

12:15PM 15 Q And did you take the ACO up on that offer?

12:15PM 16 A No.

12:15PM 17 MR. NAMMAR: Your Honor, can we show the witness only  
12:15PM 18 1-895?

12:15PM 19 THE COURT: Go ahead.

12:15PM 20 BY MR. NAMMAR:

12:15PM 21 Q Do you recognize the photo that's shown here?

12:15PM 22 A Yes.

12:15PM 23 Q Who is that?

12:15PM 24 A Scott.

12:15PM 25 Q That's the ACO that you had a conversation with?

12:15PM 1 A Yes.

12:15PM 2 Q Where he brought up are you Mikey's boy?

12:15PM 3 A Yes.

12:15PM 4 MR. NAMMAR: And I'd move to admit 1-895.

12:15PM 5 THE COURT: Any objection?

12:15PM 6 MR. KENNEDY: No objection.

12:15PM 7 THE COURT: 1-895 is a admitted then.

12:15PM 8 Counsel, when you're done with this line of

12:15PM 9 questioning, can we take our second break?

12:15PM 10 MR. NAMMAR: Yes.

12:15PM 11 (Exhibit 1-895 was received in evidence.)

12:15PM 12 BY MR. NAMMAR:

12:15PM 13 Q So the jury can see it, Mr. Smith, who are we looking at  
12:15PM 14 here?

12:15PM 15 A Scott.

12:15PM 16 Q This is the ACO that approached you in the rec yard?

12:16PM 17 A Yes.

12:16PM 18 MR. NAMMAR: I think this is a good place to stop,  
12:16PM 19 Your Honor.

12:16PM 20 THE COURT: Okay. Let's take our second break of the  
12:16PM 21 day then. We're at 12:15 just a little bit later than that, in  
12:16PM 22 fact, at this point. As we go to break, I'll remind our jurors  
12:16PM 23 to refrain from discussing the substance of this case with  
12:16PM 24 anyone; to refrain from accessing any media or other accounts  
12:16PM 25 of this case that may be out there; and then finally, please do

12:16PM 1 not conduct any independent investigation of your into the  
12:17PM 2 facts, circumstances or persons involved.  
12:17PM 3 (Proceedings were recessed at 12:17 p.m. to 12:44  
12:17PM 4 p.m.)  
12:44PM 5 THE COURT: Mr. Nammar, you may resume when you're  
12:44PM 6 ready.  
12:44PM 7 MR. NAMMAR: Thank you. If we could publish, Your  
12:44PM 8 Honor, again 1-895 which is where we left off.  
12:44PM 9 THE COURT: Go ahead.  
12:44PM 10 BY MR. NAMMAR:  
12:44PM 11 Q So this is -- you told us, Mr. Smith, this was ACO Scott?  
12:44PM 12 A Yes.  
12:44PM 13 Q Did you know his last name?  
12:45PM 14 A No.  
12:45PM 15 Q And he worked at OCCC?  
12:45PM 16 A Yes.  
12:45PM 17 Q Can you tell the jury was that in Honolulu?  
12:45PM 18 A Yes.  
12:45PM 19 Q What part of town?  
12:45PM 20 A Kalihi.  
12:45PM 21 Q And that's a state facility?  
12:45PM 22 A Yes.  
12:45PM 23 Q Did you have some WhatsApp communications with Mr. Miske  
12:45PM 24 about this ACO, ACO Scott?  
12:45PM 25 A Yes.



12:45PM 1 MR. NAMMAR: Your Honor, can we bring up 1-953 at this  
12:45PM 2 time, page 275?  
12:45PM 3 THE COURT: Yes.  
12:45PM 4 MR. NAMMAR: And if we can zoom in on the last  
12:45PM 5 message.  
12:45PM 6 BY MR. NAMMAR:  
12:45PM 7 Q Was this Mr. Miske in the blue talking to you?  
12:46PM 8 A Yes.  
12:46PM 9 Q And the date associated with this is February 28, 2018.  
12:46PM 10 Do you see that?  
12:46PM 11 A Yes.  
12:46PM 12 Q First message. Your boy that you were -- your boy that  
12:46PM 13 you were talking to in vent pipes.  
12:46PM 14 Do you know who this refers to?  
12:46PM 15 A Yes.  
12:46PM 16 Q Who?  
12:46PM 17 A Lance.  
12:46PM 18 Q Lance Bermudez?  
12:46PM 19 A Yes.  
12:46PM 20 Q The person that you told us yesterday had told you that he  
12:46PM 21 had disposed of the van for Miske?  
12:46PM 22 A Yes.  
12:46PM 23 Q The van that Mr. Bermudez told you you thought was related  
12:46PM 24 to Frasure?  
12:46PM 25 A Yes.

12:46PM 1 MR. NAMMAR: If we go to the second page and zoom in

12:46PM 2 on all these.

12:46PM 3 BY MR. NAMMAR:

12:46PM 4 Q Mr. Miske says, flipping?

12:46PM 5 Do you see that?

12:46PM 6 A Yes.

12:46PM 7 Q What did you take that to mean?

12:46PM 8 A That he thought Lance was cooperating.

12:46PM 9 MR. NAMMAR: Can we go to the next message?

12:46PM 10 BY MR. NAMMAR:

12:47PM 11 Q Mr. Miske says, going with dummy's doctor.

12:47PM 12 Do you see that?

12:47PM 13 A Yes.

12:47PM 14 Q Is doctor a code word that you would -- you would use with

12:47PM 15 Mr. Miske?

12:47PM 16 A Yes.

12:47PM 17 Q For what?

12:47PM 18 A For the lawyer.

12:47PM 19 Q The doctor meant lawyer?

12:47PM 20 A Yes.

12:47PM 21 Q And going with dummy's, is there a particular person that

12:47PM 22 you would typically call dummy?

12:47PM 23 A Lindsey Kinney.

12:47PM 24 Q And do you believe this is referring to Lindsey Kinney's

12:47PM 25 attorney?

12:47PM 1 A Yes.

12:47PM 2 Q Going down. Mr. Miske says, Mom paid him to take the  
12:47PM 3 case.

12:47PM 4 Is that referring to Lance's mom?

12:47PM 5 A Yes.

12:47PM 6 Q And then going down. Wait, what?

12:47PM 7 That's you, right?

12:47PM 8 A Yes.

12:47PM 9 Q And keep going. And you ask, what boy?

12:47PM 10 And then there's a picture and then okay.

12:47PM 11 He says, I'm leaving doctor's office now who just told  
12:47PM 12 me they just got kicked off the case.

12:48PM 13 Do you see that?

12:48PM 14 A Yes.

12:48PM 15 Q Who did you understand to be Mr. Miske's doctor?

12:48PM 16 A Alen.

12:48PM 17 Q Alen Kaneshiro?

12:48PM 18 A Yes.

12:48PM 19 Q If we go up, there's a picture. Do you see that?

12:48PM 20 A Yes.

12:48PM 21 MR. NAMMAR: We can go to now to page 524.

12:48PM 22 BY MR. NAMMAR:

12:48PM 23 Q Is this just the same picture blown up?

12:48PM 24 A Yes.

12:48PM 25 Q Do you recognize whose office that is?

12:48PM 1 A Yes.

12:48PM 2 Q Whose office?

12:48PM 3 A Alen's.

12:48PM 4 Q Alen Kaneshiro?

12:48PM 5 A Yes.

12:48PM 6 MR. NAMMAR: We can go now back to 277. And can we go  
12:48PM 7 to 278?

12:48PM 8 BY MR. NAMMAR:

12:49PM 9 Q Mr. Miske says, you know what boy.

12:49PM 10 Do you see that?

12:49PM 11 A Yes.

12:49PM 12 Q And then you go on to say, I don't know who and I know if  
12:49PM 13 you did one drive-by, this guy would never come out.

12:49PM 14 Do you see that?

12:49PM 15 A Yes.

12:49PM 16 Q And then keep going down. And the person -- and then  
12:49PM 17 Mr. Miske says, the friend that smokes ice inside.

12:49PM 18 Who did you believe that to refer to?

12:49PM 19 A To Lance.

12:49PM 20 Q Did he smoke methamphetamine?

12:49PM 21 A Yes.

12:49PM 22 Q Did he smoke it inside OCCC?

12:49PM 23 A Yes.

12:49PM 24 Q You are aware of that?

12:49PM 25 A Yes.

12:49PM 1 Q Going down. And your response is, what do you mean he  
12:49PM 2 flipping? He not telling. He said Jason not even trying for  
12:49PM 3 help him. He said Jason never comes to see him.  
12:49PM 4 What does that refer to?  
12:49PM 5 A Jason was the other lawyer. He does -- working with Alen  
12:50PM 6 on Lance's case.  
12:50PM 7 Q Did you understand that Jason and Alen were affiliated  
12:50PM 8 with each other?  
12:50PM 9 A Yes.  
12:50PM 10 Q And did you understand that Mr. Miske had paid for Jason?  
12:50PM 11 A Yes.  
12:50PM 12 Q Keep going down. And then Mr. Miske says, that's a lie.  
12:50PM 13 Keep going down. Jason cracked the case open.  
12:50PM 14 Do you see that?  
12:50PM 15 A Yes.  
12:50PM 16 Q Got -- got -- keep going down.  
12:50PM 17 Got the witness lying.  
12:50PM 18 A Yes.  
12:50PM 19 Q You guys were talking about Jason the attorney?  
12:50PM 20 A Yes.  
12:50PM 21 Q Keep going down. And then you respond, he said Jason no  
12:50PM 22 come to see him nothing. And you say wait, what witnesses?  
12:50PM 23 And Miske says, whatever.  
12:51PM 24 Did it appear to you from this message conversation  
12:51PM 25 that Mr. Miske knew a fair amount about Lance's case?

12:51PM 1 A Yes.

12:51PM 2 Q Keep going down. And then Mr. Miske says he's going with  
12:51PM 3 dummy's doctor now.

12:51PM 4 Who did you believe that was a reference to?

12:51PM 5 A To Myles Breiner, Lindsey Kinney's lawyer.

12:51PM 6 Q Keep going down. You say, "Wow, that's squirley."

12:51PM 7 And then Mr. Miske says, "Dummy's doctor going to hold  
12:51PM 8 his hand and convince him to flip guaranteed."

12:51PM 9 Do you see that?

12:51PM 10 A Yes.

12:51PM 11 Q Flip means cooperate?

12:51PM 12 A Yes.

12:51PM 13 Q And you say, "No way."

12:51PM 14 Do you see that?

12:51PM 15 A Yes.

12:51PM 16 Q And then stop here. Mr. Miske says, "I wouldn't take any  
12:51PM 17 calls from anybody inside if I were you. Guarantee it's going  
12:52PM 18 to be recorded."

12:52PM 19 What did that refer to?

12:52PM 20 A If Lance called me from in jail.

12:52PM 21 Q That he's giving you directions about not to take a call  
12:52PM 22 from Lance?

12:52PM 23 A Yes.

12:52PM 24 Q Going down. "I seen the paperwork. I would not like to  
12:52PM 25 you."

12:52PM 1 Do you think that's a typo, the "like"?

12:52PM 2 A Yes.

12:52PM 3 Q What do you think he meant?

12:52PM 4 A Lie.

12:52PM 5 Q Was does paperwork's refer to?

12:52PM 6 A The paperwork for Lance's case I guess.

12:52PM 7 Q Going down. And then Mr. Miske says, "Wouldn't lie to

12:52PM 8 you."

12:52PM 9 Do you see that?

12:52PM 10 A Yes.

12:52PM 11 Q And then he says, "You know who dummy's doctor is, right?"

12:52PM 12 Going down. And then he says, "He took away all the cases even

12:52PM 13 from your doctor."

12:52PM 14 Do you see that?

12:52PM 15 A Yes.

12:52PM 16 Q Is this referring to Myles Breiner?

12:53PM 17 A I think so.

12:53PM 18 Q "And your doctor," who is your doctor?

12:53PM 19 A Alen Kaneshiro.

12:53PM 20 Q Going down. And you say, "MB."

12:53PM 21 What did that refer to?

12:53PM 22 A Myles Breiner.

12:53PM 23 Q If we go down, Miske replies, "Yep."

12:53PM 24 Do you see that?

12:53PM 25 A Yes.

12:53PM 1 Q Keep going down. Stop. Goes on to say, "Your doctor was  
12:53PM 2 also representing your friend on another case. That guy took  
12:53PM 3 away that case too."

12:53PM 4 Do you know what Miske's talking about here?

12:53PM 5 A No.

12:53PM 6 Q Keep going down. Keep going down. "MB took that case  
12:53PM 7 away too."

12:53PM 8 Do you see that?

12:53PM 9 A Yes.

12:53PM 10 Q Is that a reference to Myles Breiner?

12:53PM 11 A Yes.

12:53PM 12 Q Keep going down. Down. Mr. Miske says, "I just left the  
12:53PM 13 doctor's. They just told me all this."

12:53PM 14 Do you see that?

12:53PM 15 A Yes.

12:54PM 16 Q And doctors means lawyers, correct?

12:54PM 17 A Yes.

12:54PM 18 Q Keep going down. And then you say, "IDK."

12:54PM 19 What does that mean?

12:54PM 20 A I don't know.

12:54PM 21 Q "I don't know if he know. That's dummy's doctor."

12:54PM 22 Who is the "he" you're referring to here?

12:54PM 23 A To Lance.

12:54PM 24 Q So you're saying, "I don't know if Lance knows that that's  
12:54PM 25 Myles Breiner," in other words, Lindsey Kinney's attorney?



12:54PM 1 A Yes.

12:54PM 2 Q Keep going down. Keep going down. And then Mr. Miske  
12:54PM 3 says, "You should let him know that that's dummy's doctor and  
12:54PM 4 they only trying to get him to flip on something he had nothing  
12:54PM 5 to do with."

12:54PM 6 Do you see that there?

12:54PM 7 A Yes.

12:54PM 8 Q Keep going down. Stop. At this point, you knew about the  
12:54PM 9 Fraser van though, right?

12:54PM 10 A Yes.

12:54PM 11 Q And then you say, "You cannot get Scott for talk to him."

12:54PM 12 Do you see that?

12:54PM 13 A Yes.

12:54PM 14 Q Who is Scott?

12:54PM 15 A The ACO.

12:55PM 16 Q The ACO we just looked at?

12:55PM 17 A Yes.

12:55PM 18 Q The one that worked at OCCC?

12:55PM 19 A Yes.

12:55PM 20 Q Was that where Lance was incarcerated?

12:55PM 21 A Yes.

12:55PM 22 Q Keep going down. And you say, "Just send him a message."

12:55PM 23 Do you see that?

12:55PM 24 A Yes.

12:55PM 25 Q Keep going down. And then Mr. Miske's response is, "I

12:55PM 1 will."

12:55PM 2 Do you see that?

12:55PM 3 A Yes.

12:55PM 4 Q And as you told us before, Scott did, in fact, come up to  
12:55PM 5 you and talk to about Miske when you were incarcerated, right?

12:55PM 6 A Yes.

12:55PM 7 MR. NAMMAR: Take that down.

12:55PM 8 BY MR. NAMMAR:

12:55PM 9 Q So during 2016, '17 and '18, did you have firearms?

12:55PM 10 A Yes.

12:55PM 11 Q Almost always?

12:55PM 12 A Yes.

12:55PM 13 Q During that same time period before Lance was arrested,  
12:55PM 14 did he also have firearms?

12:56PM 15 A Yes.

12:56PM 16 Q How about John Stancil? Did he also have firearms?

12:56PM 17 A Yes.

12:56PM 18 Q Where did you guys obtain them from?

12:56PM 19 A We get them from Miller, get them from Keali'i.

12:56PM 20 Q Wayne Miller?

12:56PM 21 A Yes.

12:56PM 22 Q Keali'i Young?

12:56PM 23 A Yes.

12:56PM 24 Q Did you ever have a conversation with Miske where he  
12:56PM 25 expressed an interest in purchasing firearms?

12:56PM 1 A He wanted to buy one of the guns I had.

12:56PM 2 Q Which gun?

12:56PM 3 A The mini AK47.

12:56PM 4 Q This is an assault rifle?

12:56PM 5 A It's a AK pistol.

12:56PM 6 Q Did he offer you money for that?

12:56PM 7 A Yes.

12:56PM 8 Q How much?

12:56PM 9 A 1,500.

12:56PM 10 Q Did you accept that offer from him?

12:56PM 11 A No.

12:56PM 12 Q Did you have conversations with John Stancil about

12:56PM 13 firearms?

12:56PM 14 A Yes.

12:56PM 15 Q What would he say to you in relation to firearms you used

12:56PM 16 in crimes?

12:56PM 17 A That he wanted to keep them in the circle, keep them

12:56PM 18 around the -- the rest of the boys.

12:57PM 19 Q Who did he say he wanted to -- to do that?

12:57PM 20 A Mike.

12:57PM 21 Q He said, "Mike wanted to keep the firearms in the circle"?

12:57PM 22 A Like Johnnie said, he wanted to keep the -- the guns

12:57PM 23 around the circle for -- for Mike I guess. He want all the

12:57PM 24 guns we were using.

12:57PM 25 Q Would you give him guns?

12:57PM 1 A I'd let him hold on to them, but I wouldn't give them to

12:57PM 2 him.

12:57PM 3 THE COURT REPORTER: Can you say that again?

12:57PM 4 THE WITNESS: I would let him hold on to some of them,

12:57PM 5 but I wouldn't give it to him.

12:57PM 6 BY MR. NAMMAR:

12:57PM 7 Q Did you see where Mr. Stancil would store his firearms?

12:57PM 8 A Yes.

12:57PM 9 Q Where?

12:57PM 10 A In the trunk of the Maxima that was parked in the garage

12:57PM 11 at his house.

12:57PM 12 Q Is that the same house that we looked at a picture of

12:57PM 13 earlier?

12:57PM 14 A Yes.

12:57PM 15 Q During 2016, '17, '18, would you provide Mr. Stancil with

12:57PM 16 drugs?

12:57PM 17 A Yes. Sometimes.

12:57PM 18 Q To sell?

12:57PM 19 A Yes.

12:58PM 20 Q What kind of drugs?

12:58PM 21 A Ice, coke, pills.

12:58PM 22 Q On multiple occasions, did you see Mr. Stancil selling

12:58PM 23 drugs?

12:58PM 24 A Yes.

12:58PM 25 Q What kinds of drugs?

12:58PM 1 A Ice, coke or pills.

12:58PM 2 Q Where would he sell it?

12:58PM 3 A Right there at the house.

12:58PM 4 Q How would he do it?

12:58PM 5 A He would just go meet them outside, talk to them over the

12:58PM 6 fence.

12:58PM 7 Q Over the fence?

12:58PM 8 A Yes.

12:58PM 9 Q Who were his customers?

12:58PM 10 A So all the young boys that was in the hood that was

12:58PM 11 stealing.

12:58PM 12 Q In Waimanalo?

12:58PM 13 A Yes.

12:58PM 14 Q Did you see him making those transactions?

12:58PM 15 A Yes.

12:58PM 16 Q Did -- were you aware that Mr. Stancil also sold Vicodin

12:58PM 17 and Xanax?

12:58PM 18 A Yes.

12:58PM 19 Q Would you sometimes provide those drugs to him?

12:58PM 20 A Yes.

12:58PM 21 MR. NAMMAR: Your Honor, can we show the witness only

12:59PM 22 1-949?

12:59PM 23 THE COURT: Go ahead.

12:59PM 24 MR. NAMMAR: From the original list. And if we could

12:59PM 25 zoom in on note three for the witness.

12:59PM 1 BY MR. NAMMAR:

12:59PM 2 Q Mr. Smith, are these notes from your phone?

12:59PM 3 A Yes.

12:59PM 4 Q Some names and a bunch of numbers. What is this?

12:59PM 5 A That was numbers that I was owed for drugs.

12:59PM 6 Q People that owed you money for drugs?

12:59PM 7 A Yes.

12:59PM 8 Q Was it helpful for you to keep track of who owed you what?

12:59PM 9 A Yes.

12:59PM 10 Q So you could make sure you could collect the right amount?

12:59PM 11 A Yes.

12:59PM 12 Q Is John Stancil on this list?

12:59PM 13 A Yes.

12:59PM 14 MR. NAMMAR: Your Honor, move to admit 1-949.

12:59PM 15 THE COURT: Any objection?

12:59PM 16 MR. KENNEDY: No objection.

12:59PM 17 THE COURT: 1-949 is admitted. You may publish.

12:59PM 18 MR. NAMMAR: Thank you.

12:59PM 19 (Exhibit 1-949 was received in evidence.)

01:00PM 20 MR. NAMMAR: So if we can just zoom in on the same

01:00PM 21 note, note three.

01:00PM 22 BY MR. NAMMAR:

01:00PM 23 Q Is this a reproduction of notes from your phone?

01:00PM 24 A Yes.

01:00PM 25 Q And it's got a number of different people with amounts to

01:00PM 1 it. These amounts were all drug amounts owed to you?

01:00PM 2 A Yes.

01:00PM 3 Q What does it mean to front drugs?

01:00PM 4 A When you give it to them without them paying up front.

01:00PM 5 Q And then they pay you back?

01:00PM 6 A Yes.

01:00PM 7 Q Are these people that owed you money from when you had

01:00PM 8 fronted them drugs?

01:00PM 9 A Yes.

01:00PM 10 Q Okay. T who is right here next to 9,025, who is that?

01:00PM 11 A Tim.

01:00PM 12 Q Tim Taboada?

01:00PM 13 A Yes.

01:00PM 14 Q The person you talked about earlier?

01:00PM 15 A Yes.

01:00PM 16 Q And JB, who is that?

01:00PM 17 A Johnnie.

01:00PM 18 Q Johnnie Stancil?

01:01PM 19 A Yes.

01:01PM 20 Q Can -- can you remind us of his middle name?

01:01PM 21 A Blane.

01:01PM 22 Q Shorty, who is that?

01:01PM 23 A Kaulana.

01:01PM 24 Q Kaulana Freitas?

01:01PM 25 A Yes.

01:01PM 1 Q Was shorty his nickname?

01:01PM 2 A Yes.

01:01PM 3 Q Did John B -- John Stancil have a nickname?

01:01PM 4 A He had a bunch nicknames.

01:01PM 5 Q Would he sometimes be referred to as Migo?

01:01PM 6 A Yes.

01:01PM 7 MR. NAMMAR: We can take that down.

01:01PM 8 BY MR. NAMMAR:

01:01PM 9 Q In 2018 did you -- in around 2018, did you begin using  
01:01PM 10 oxys yourself?

01:01PM 11 A Yes.

01:01PM 12 Q What is oxy?

01:01PM 13 A A pain -- pain drug.

01:01PM 14 Q How did you start using those?

01:01PM 15 A I got into a bad car accident.

01:01PM 16 Q And you were prescribed them?

01:01PM 17 A Yes.

01:01PM 18 Q And then you developed a habit?

01:01PM 19 A Yes.

01:01PM 20 Q And you had to continue to use them?

01:02PM 21 A Yes.

01:02PM 22 Q Without permission from your doctor?

01:02PM 23 A Yes.

01:02PM 24 Q Were -- did you become addicted to oxys until you were  
01:02PM 25 arrested in August of 2018?



01:02PM 1 A Yes.

01:02PM 2 Q Would you have any trouble remembering things when you  
01:02PM 3 were on oxycodone?

01:02PM 4 A No.

01:02PM 5 Q Could you still function?

01:02PM 6 A Yes.

01:02PM 7 Q What sorts of feelings did you have when you were coming  
01:02PM 8 off of them?

01:02PM 9 A I just had withdrawals when I was coming off of them.

01:02PM 10 Q Other than that, it didn't affect you?

01:02PM 11 A No.

01:02PM 12 Q In -- in 2018, were you buying and selling oxys?

01:02PM 13 A Yes.

01:02PM 14 Q Was one of the people that you did that with Kaulana  
01:02PM 15 Freitas?

01:02PM 16 A Yes.

01:02PM 17 Q Would you sell to him sometimes?

01:02PM 18 A We would just sell back and forth to each other for  
01:02PM 19 personal use.

01:02PM 20 MR. NAMMAR: Your Honor, can we show the witness only  
01:02PM 21 1-948 at this time from the original list?

01:03PM 22 THE COURT: Go ahead.

01:03PM 23 MR. NAMMAR: And scroll through it for the witness.

01:03PM 24 BY MR. NAMMAR:

01:03PM 25 Q Do you recognize these as a contact list from your phone?

01:03PM 1 A Yes.

01:03PM 2 MR. NAMMAR: Your Honor, I move to admit 1-948.

01:03PM 3 THE COURT: Any objection?

01:03PM 4 MR. KENNEDY: No objection, Your Honor.

01:03PM 5 THE COURT: 1-948 is admitted then without objection.

01:03PM 6 You may publish it, Counsel.

01:03PM 7 (Exhibit 1-948 was received in evidence.)

01:03PM 8 MR. NAMMAR: Thank you.

01:03PM 9 We can start on page one. Zoom in on the left side.

01:03PM 10 BY MR. NAMMAR:

01:03PM 11 Q I'm going to walk through some contacts with you again,

01:03PM 12 Mr. Smith. Alen, who was that?

01:03PM 13 A Alen Kaneshiro.

01:03PM 14 Q If we can go to contact 7, Ash, who was that?

01:04PM 15 A Ashlin Akau.

01:04PM 16 Q Going down to eight, Bull Shorty. Who is that?

01:04PM 17 A Kaulana.

01:04PM 18 Q Is that his nickname?

01:04PM 19 A Yes.

01:04PM 20 Q Ten. Isaiah Bush, who is that?

01:04PM 21 A One of my friends.

01:04PM 22 Q We looked at a video yesterday where Mr. Stancil was

01:04PM 23 pointing a gun at someone. Who was he pointing a gun at?

01:04PM 24 A Isaiah.

01:04PM 25 Q Isaiah Bush?

01:04PM 1 A Yes.

01:04PM 2 Q Can we go to contact 16? Who is J?

01:04PM 3 A Johnnie.

01:04PM 4 Q Can we go to contact 22? Sorry, 22. Who is Oni Boy?

01:05PM 5 A Keoni Adric.

01:05PM 6 Q That's the person that you told us yesterday that

01:05PM 7 assaulted Shayden for Mr. Miske?

01:05PM 8 A Yes.

01:05PM 9 Q Go to 25. Who is Preston?

01:05PM 10 A Preston Kimoto.

01:05PM 11 Q Is that the person that you talked about yesterday that

01:05PM 12 worked at Kama'aina Termite?

01:05PM 13 A Yes.

01:05PM 14 Q And also did things with the auction?

01:05PM 15 A Yes.

01:05PM 16 MR. NAMMAR: We can take that down.

01:05PM 17 BY MR. NAMMAR:

01:05PM 18 Q Jacob Cook, is that somebody's name that sounds familiar

01:05PM 19 to you?

01:05PM 20 A It's familiar, yeah.

01:05PM 21 Q Do you know him?

01:05PM 22 A Not really.

01:05PM 23 Q Do you know whether John Stancil knows him?

01:05PM 24 A Yes.

01:05PM 25 Q How do you know that?

01:05PM 1 A I know they were friends from before.

01:06PM 2 Q They were friends?

01:06PM 3 A Yes.

01:06PM 4 Q Do you know where Jacob Cook lives?

01:06PM 5 A No.

01:06PM 6 Q Have you seen pictures of Mr. Cook and Mr. Stancil hanging

01:06PM 7 out together?

01:06PM 8 A I've seen them two before, yeah.

01:06PM 9 Q Harry Kauhi, that's somebody that you talk about briefly

01:06PM 10 yesterday?

01:06PM 11 A Yes.

01:06PM 12 Q Have you -- you told us that you got methamphetamine from

01:06PM 13 him?

01:06PM 14 A Yes.

01:06PM 15 Q Did you get methamphetamine from him multiple times?

01:06PM 16 A Yes.

01:06PM 17 Q If you had to estimate the amount of total methamphetamine

01:06PM 18 you got from him, what would you estimate?

01:06PM 19 A Over the years, probably six, seven pounds.

01:06PM 20 Q And would that have been during 2016, '17 and '18 or

01:06PM 21 before that?

01:06PM 22 A Even before that I was getting from him sometimes.

01:06PM 23 Q Okay. Were you getting from him in 2016 and '17 and '18?

01:07PM 24 A Yes.

01:07PM 25 Q Were you getting pound quantities from him?

01:07PM 1 A Every now and then.

01:07PM 2 Q And would you provide those quantities to Tim Taboada to  
01:07PM 3 sell?

01:07PM 4 A Yes.

01:07PM 5 MR. NAMMAR: If we can show the witness only now 1-951  
01:07PM 6 from the original list?

01:07PM 7 THE COURT: Okay. Go ahead.

01:07PM 8 BY MR. NAMMAR:

01:07PM 9 Q The contacts, do you recognize who's J?

01:07PM 10 A Yes.

01:07PM 11 Q Who is J?

01:07PM 12 A Johnnie.

01:07PM 13 Q And you're JJ; is that right?

01:07PM 14 A Yes.

01:07PM 15 MR. NAMMAR: If we zoom out. And then if we go to  
01:07PM 16 page three for the witness and zoom in on the bottom message.

01:07PM 17 BY MR. NAMMAR:

01:07PM 18 Q Did you review this exchange of WhatsApp messages before  
01:07PM 19 you came here to testify?

01:08PM 20 A Yes.

01:08PM 21 Q Are these between you and Mr. Stancil?

01:08PM 22 A Yes.

01:08PM 23 Q And in them, do you discuss assaulting Lindsey Kinney?

01:08PM 24 A I believe so.

01:08PM 25 Q Do you also discuss law enforcement investigations?

01:08PM 1 A Yes.

01:08PM 2 Q And do you also discuss a robbery target?

01:08PM 3 A Yes.

01:08PM 4 MR. NAMMAR: Your Honor, I move to admit 1-951.

01:08PM 5 THE COURT: Any objection?

01:08PM 6 MR. KENNEDY: No objection.

01:08PM 7 THE COURT: 1-951 then is admitted without objection.

01:08PM 8 You may publish.

01:08PM 9 (Exhibit 1-951 was received in evidence.)

01:08PM 10 MR. NAMMAR: Thank you.

01:08PM 11 If we can start with page three and zoom in.

01:08PM 12 BY MR. NAMMAR:

01:08PM 13 Q Is this blue -- in blue a message from Mr. Stancil?

01:08PM 14 A Yes.

01:08PM 15 Q Is he identifying himself there as John Blane?

01:08PM 16 A Yes.

01:08PM 17 Q That's his middle name?

01:08PM 18 A Yes.

01:08PM 19 MR. NAMMAR: If we go to the next page and go up, yes.

01:09PM 20 If you can zoom in on so we can see it a little clearer.

01:09PM 21 BY MR. NAMMAR:

01:09PM 22 Q On April 14th, do you see that?

01:09PM 23 A Yes.

01:09PM 24 Q 2018. You ask, what you coming with us tomorrow?

01:09PM 25 Do you see that?

01:09PM 1 A Yes.

01:09PM 2 Q Going down. Going down. Keep going down.

01:09PM 3 You -- you like or no?

01:09PM 4 You're asking him if he's going to go?

01:09PM 5 A Yes.

01:09PM 6 Q Going down. If you want to go, well, we will wait for

01:09PM 7 you.

01:09PM 8 Is that what you're asking him if he wants to go?

01:09PM 9 A Yes.

01:09PM 10 Q Going down. He responds to you, says just be safe, Bro.

01:09PM 11 I cannot just leave right now. I would have to get ready. Et

01:09PM 12 cetera.

01:09PM 13 MR. NAMMAR: And then stop here.

01:09PM 14 BY MR. NAMMAR:

01:10PM 15 Q No go all the way?

01:10PM 16 Do you see that?

01:10PM 17 A Yes.

01:10PM 18 Q Just cracks?

01:10PM 19 A Yes.

01:10PM 20 Q What does that refer to?

01:10PM 21 A He was just telling us if we are going with guns don't go

01:10PM 22 all the way.

01:10PM 23 Q Don't shoot him?

01:10PM 24 A Yes.

01:10PM 25 Q Just cracks. What does that refer to?

01:10PM 1 A Just assault him.

01:10PM 2 Q Who are you guys talking about here?

01:10PM 3 A Lindsey Kinney.

01:10PM 4 Q And is this in preparation for an event, if you recall?

01:10PM 5 A Yes.

01:10PM 6 Q What event?

01:10PM 7 A We was going to go catch him at the chicken fights.

01:10PM 8 THE COURT REPORTER: I'm sorry. What --

01:10PM 9 THE WITNESS: We were going to go and catch him at the  
01:10PM 10 chicken fights.

01:10PM 11 BY MR. NAMMAR:

01:10PM 12 Q Did you know that Mr. -- Mr. Kinney went to the chicken  
01:10PM 13 fights on occasion?

01:10PM 14 A Yes.

01:10PM 15 MR. NAMMAR: Okay. Keep going down and then stop  
01:10PM 16 there.

01:10PM 17 BY MR. NAMMAR:

01:10PM 18 Q "We go lick this person."

01:11PM 19 Do you see that?

01:11PM 20 A Yes.

01:11PM 21 Q What does "lick" refer to?

01:11PM 22 A That we were going to beat him up.

01:11PM 23 MR. NAMMAR: Keep going down. Keep going down. Can  
01:11PM 24 you go back up?

01:11PM 25 BY MR. NAMMAR:



01:11PM 1 Q He says, "Let me talk to da kine."  
01:11PM 2 Do you see that?  
01:11PM 3 A Yes.  
01:11PM 4 Q And going down, "He say, K let's go. I just told him."  
01:11PM 5 A Yes.  
01:11PM 6 Q Who are you referring to here?  
01:11PM 7 A To Mike.  
01:11PM 8 Q And tomorrow we'll probably look at it, but do you also  
01:11PM 9 have a conversation about the same chicken fight with  
01:11PM 10 Mr. Miske?  
01:11PM 11 A I think so.  
01:11PM 12 Q If we go down. And then you say, "me and you go there and  
01:11PM 13 smash these fuckers."  
01:11PM 14 Do you see that?  
01:11PM 15 A Yes.  
01:11PM 16 Q Or you say "fakes," excuse me. Is that a typo? Did you  
01:11PM 17 mean fakes?  
01:11PM 18 A I'm not sure.  
01:12PM 19 Q Okay. "Smash" meant what?  
01:12PM 20 A To beat them up.  
01:12PM 21 Q Going to the next page, what are you saying in that  
01:12PM 22 message?  
01:12PM 23 A That we were going to go and beat them up.  
01:12PM 24 Q Going down. Going down. Going down. Going down. You're  
01:12PM 25 saying you are going to knock out who?

01:12PM 1 A Lindsey.

01:12PM 2 Q Going down. "He stay there."

01:12PM 3 What does that refer to?

01:12PM 4 A Lindsey.

01:12PM 5 Q Going down. Response Mr. Stancil says, "Smash him"?

01:12PM 6 A Yes.

01:12PM 7 Q Does that refer to hospitalize him?

01:12PM 8 A He's telling us to smash him.

01:12PM 9 Q Is that usually a level that was hospitalization?

01:12PM 10 A Yeah, kind of.

01:12PM 11 Q Going down. You got that. You're going to ask him if he

01:13PM 12 is going to go. And then he tells you -- keep going down --

01:13PM 13 should wait till he about to leave to his truck.

01:13PM 14 Do you see that?

01:13PM 15 A Yes.

01:13PM 16 Q What does that refer to?

01:13PM 17 A He was just telling us wait till Lindsey gets to his

01:13PM 18 truck.

01:13PM 19 Q So when he's leaving the chicken fight?

01:13PM 20 A Yes.

01:13PM 21 Q Keep going down. Says, pick the shot.

01:13PM 22 And then you say, "His truck by all kine people."

01:13PM 23 Are you at the fight at this point?

01:13PM 24 A Yes.

01:13PM 25 Q Going down. "Go give him a change for run behind the

01:13PM 1 house."

01:13PM 2 Is that probably a typo?

01:13PM 3 A Yes.

01:13PM 4 Q Keep going down. "Don't let him get to his truck."

01:14PM 5 Do you see that?

01:14PM 6 A Yes.

01:14PM 7 Q And then keep going down. "Nobody is going to do nothing

01:14PM 8 when they see you."

01:14PM 9 Do you see that?

01:14PM 10 A Yes.

01:14PM 11 Q So he's giving you instruction here on how to assault

01:14PM 12 Mr. Kinney?

01:14PM 13 A Yes.

01:14PM 14 Q Did you assault him on that day?

01:14PM 15 A No.

01:14PM 16 Q We go down, and this is the next day, April 16th. You're

01:14PM 17 telling him that two uniformed police officers went to

01:14PM 18 Chavells. Do you see that?

01:14PM 19 A Yes.

01:14PM 20 Q Was that one of your friends at the time?

01:14PM 21 A Yes.

01:14PM 22 Q And then going down. And you say, "And one out of

01:14PM 23 uniform."

01:14PM 24 What did you mean by that?

01:14PM 25 A Two of the police officers had uniforms on and one didn't.

01:14PM 1 Q Can you pull the mic just a little closer to you? Going

01:14PM 2 down to the next page. Keep going.

01:14PM 3 And he asked, "Plain clothes? That's da kine, brah."

01:15PM 4 Do you see that?

01:15PM 5 A Yes.

01:15PM 6 Q Keep going down. "One plain two regular."

01:15PM 7 We can go to -- keep going down. Up there.

01:15PM 8 And he tells you, "Well, if anything, call AK."

01:15PM 9 Do you see that?

01:15PM 10 A Yes.

01:15PM 11 Q Who is that?

01:15PM 12 A Alen Kaneshiro.

01:15PM 13 MR. NAMMAR: Going down. Stop there.

01:15PM 14 BY MR. NAMMAR:

01:15PM 15 Q "Then he'll make the call."

01:15PM 16 Do you see that?

01:15PM 17 A Yes.

01:15PM 18 Q Did you believe Alen Kaneshiro had a source in the police  
01:15PM 19 department who could get information?

01:15PM 20 A Yes.

01:15PM 21 Q Keep going down. Keep going down. And here you're  
01:16PM 22 saying, "I text him this morning as soon as I heard."

01:16PM 23 Is that referring to Alen Kaneshiro?

01:16PM 24 A Yes.

01:16PM 25 Q Keep going down. And then John Stancil says -- keep going

01:16PM 1 down. "Keep me posted."

01:16PM 2 Do you see that?

01:16PM 3 A Yes.

01:16PM 4 MR. NAMMAR: All right. Now, going to the next

01:16PM 5 message. Stop there.

01:16PM 6 BY MR. NAMMAR:

01:16PM 7 Q This is in May of 2018. Mr. Stancil says, "I seen da kine

01:16PM 8 in HK yesterday."

01:16PM 9 Who does -- what does HK refer to?

01:16PM 10 A Hawaii Kai.

01:16PM 11 MR. NAMMAR: Keep going down. Keep going down. And

01:16PM 12 then stop here.

01:16PM 13 BY MR. NAMMAR:

01:16PM 14 Q You say, "I ripping him this one. LOL"?

01:17PM 15 A Yes.

01:17PM 16 Q Who you are referring to here?

01:17PM 17 A The guy that we were getting the drugs from.

01:17PM 18 Q Who was that?

01:17PM 19 A Nico Carignan.

01:17PM 20 Q And were you planning on robbing him again?

01:17PM 21 A I was just planning on taking it and not coming back with

01:17PM 22 it.

01:17PM 23 Q Not paying him?

01:17PM 24 A Yes.

01:17PM 25 Q Keep going down. He says, "I was wondering why."

01:17PM 1 Do you see that?

01:17PM 2 A Yes.

01:17PM 3 Q And then he goes on to say, "You going to say yeah me do  
01:17PM 4 now."

01:17PM 5 Does that mean you're going to take the drugs now?

01:17PM 6 A I think so.

01:17PM 7 Q You go down. He says, "I told myself that when I saw.  
01:17PM 8 LOL."

01:17PM 9 Going down. "Catch him."

01:18PM 10 Do you see that?

01:18PM 11 A Yes.

01:18PM 12 Q What's he telling you here?

01:18PM 13 A To rip him off basically.

01:18PM 14 Q And would you regularly fill Mr. Stancil in on people that  
01:18PM 15 you were planning to take drugs from like this?

01:18PM 16 A Yes.

01:18PM 17 Q We can go to page 27. Is this him sending you some  
01:18PM 18 photos?

01:18PM 19 A Yes.

01:18PM 20 Q And also on page 28 more photos?

01:18PM 21 A Yes.

01:18PM 22 Q And then on page 29, you're sending him some photos. Do  
01:18PM 23 you see that?

01:18PM 24 A Yes.

01:18PM 25 Q If we go to page 30, who is shown here?

01:19PM 1 A Me and Johnnie.

01:19PM 2 Q Leverage, is that his company?

01:19PM 3 A Yes.

01:19PM 4 Q And 31, who's is shown here?

01:19PM 5 A Me, Johnnie and Cody.

01:19PM 6 Q Who is -- which one is Cody?

01:19PM 7 A The one on the left.

01:19PM 8 Q Who was Cody again?

01:19PM 9 A Their other brother.

01:19PM 10 Q Could we go to page 35? Who is shown here?

01:19PM 11 A Me, Johnnie, Kaulana, Frankie and Isaiah.

01:19PM 12 Q Which one is -- well, can you go from left to right

01:19PM 13 starting at the left?

01:19PM 14 A Left is Kaulana, Johnnie, Isaiah, me -- me and Frankie.

01:19PM 15 Q Going to the next page.

01:19PM 16 MR. NAMMAR: Zoom in.

01:19PM 17 BY MR. NAMMAR:

01:20PM 18 Q Who's here?

01:20PM 19 A That's me, Johnnie, Keali'i, Kaulana and Jarrin.

01:20PM 20 Q Who's Jarrin?

01:20PM 21 A That was just one of the boys that used to cruise with me.

01:20PM 22 Q Would you sometimes commit robberies with Jarrin?

01:20PM 23 A Yes.

01:20PM 24 Q Where was this picture taken?

01:20PM 25 A At the bay.

01:20PM 1 MR. NAMMAR: We can take that down.

01:20PM 2 BY MR. NAMMAR:

01:20PM 3 Q Just like you filled Mr. Stancil in on some of your

01:20PM 4 robbery targets, would he also fill you on on the crimes he was

01:20PM 5 doing?

01:20PM 6 A Yes.

01:20PM 7 Q Was it helpful to know people in the group what crimes

01:20PM 8 they were committing and to be updated on them?

01:20PM 9 A Yes.

01:20PM 10 Q Was it helpful to know that because it was helpful to know

01:20PM 11 who your enemies were?

01:20PM 12 A Yes.

01:20PM 13 Q Was it also helpful to know what you all were being

01:21PM 14 investigated for?

01:21PM 15 A Yes.

01:21PM 16 Q Did Mr. Stancil talk to you about an assault he did at the

01:21PM 17 Wendy's parking lot?

01:21PM 18 A Yes.

01:21PM 19 Q What did he tell you?

01:21PM 20 A He just told me --

01:21PM 21 MR. KENNEDY: Objection, past narrative, hearsay.

01:21PM 22 THE COURT: I'm sorry. I didn't hear what you said,

01:21PM 23 Mr. Kennedy.

01:21PM 24 MR. KENNEDY: Objection, hearsay, past narrative.

01:21PM 25 THE COURT: Overruled. Go ahead.



01:21PM 1 THE WITNESS: He just told me that he did an assault  
01:21PM 2 for Mike at Wendy's.

01:21PM 3 BY MR. NAMMAR:

01:21PM 4 Q Did he tell you anymore details besides that?

01:21PM 5 A Not much.

01:21PM 6 Q Do you recall any other details?

01:21PM 7 A He just said that they were at Wendy's and he -- him and  
01:21PM 8 Mike was over there and he beat somebody up at Wendy's.

01:21PM 9 Q Did he also talk to you about a robbery of a store called  
01:21PM 10 The Bank?

01:21PM 11 A Yes.

01:21PM 12 Q What is The Bank?

01:21PM 13 A It was an expensive shoe store and clothing store.

01:21PM 14 Q Where was it located? Or do you know?

01:21PM 15 A I'm not really sure.

01:21PM 16 Q And what did he tell you about the robbery of a shoe and  
01:21PM 17 clothing store called The Bank?

01:22PM 18 MR. KENNEDY: Same objection, Your Honor, hearsay,  
01:22PM 19 past narrative.

01:22PM 20 THE COURT: Same ruling, go ahead.

01:22PM 21 THE WITNESS: He just told me that it was supposed to  
01:22PM 22 be a big one over there and him and Frankie and Lance, Keali'i  
01:22PM 23 went and did it.

01:22PM 24 BY MR. NAMMAR:

01:22PM 25 Q Was it a big one?

01:22PM 1 A I think they missed it.

01:22PM 2 Q They didn't get a lot of money?

01:22PM 3 A No.

01:22PM 4 Q Did Keali'i also talk to you about that?

01:22PM 5 A Yes.

01:22PM 6 Q Did Frankie tell you -- talk to you about that?

01:22PM 7 A Yes.

01:22PM 8 Q Did Lance also talk to you about that?

01:22PM 9 A Yes.

01:22PM 10 Q They all told you about that robbery?

01:22PM 11 A Yes.

01:22PM 12 Q Gold Rush, does that sound familiar to you?

01:22PM 13 A Yes.

01:22PM 14 Q What is Gold Rush?

01:22PM 15 A He was a jeweler.

01:22PM 16 Q And did Johnnie tell you about a robbery of Gold Rush?

01:22PM 17 A Yes.

01:22PM 18 Q What did he tell you?

01:22PM 19 MR. KENNEDY: Objection, hearsay, past narrative, Your

01:22PM 20 Honor.

01:22PM 21 THE COURT: Overruled. Go ahead.

01:22PM 22 THE WITNESS: He just told me that they ended up

01:23PM 23 getting Gold Rush. They got his chain.

01:23PM 24 BY MR. NAMMAR:

01:23PM 25 Q Did he tell you how it went down?

01:23PM 1 A He said he seen Gold Rush and his girlfriend at Assagios  
01:23PM 2 in Kailua, and he called Frankie and they already knew where  
01:23PM 3 his house was. I think he followed him home and just kind of  
01:23PM 4 was giving them the updates on where they was and Frankie then  
01:23PM 5 waited behind his garage for him to get out and they took the  
01:23PM 6 chain.

01:23PM 7 Q They took the chain?

01:23PM 8 A Yes.

01:23PM 9 Q In a robbery?

01:23PM 10 A Yes.

01:23PM 11 Q Did Stancil tell you anything about Dae Han?

01:23PM 12 A Yes.

01:23PM 13 Q What did he say?

01:23PM 14 A He said --

01:23PM 15 MR. KENNEDY: Objection, Your Honor, vague and...

01:23PM 16 MR. NAMMAR: I can rephrase it, Your Honor.

01:23PM 17 THE COURT: Fine.

01:23PM 18 BY MR. NAMMAR:

01:23PM 19 Q Did -- did Stancil tell you that Dae Han was involved in  
01:23PM 20 the robbery?

01:23PM 21 A Yes, he said Dae Han was there.

01:23PM 22 Q Did Stancil tell you that essentially he provided the  
01:23PM 23 intelligence for that robbery?

01:23PM 24 A Yes.

01:24PM 25 MR. NAMMAR: Your Honor, can we show the witness only

01:24PM 1 1-187?

01:24PM 2 THE COURT: Go ahead.

01:24PM 3 BY MR. NAMMAR:

01:24PM 4 Q Do you recognize what is shown here?

01:24PM 5 A Yes.

01:24PM 6 Q What's shown here?

01:24PM 7 A Guy Gold Rush.

01:24PM 8 MR. NAMMAR: Your Honor, I move to admit 1-187.

01:24PM 9 THE COURT: Any objection?

01:24PM 10 MR. KENNEDY: Only tied to the earlier objection, Your

01:24PM 11 Honor.

01:24PM 12 THE COURT: All right. The objection's overruled then

01:24PM 13 and publish. The exhibit is admitted. That's 1-187.

01:24PM 14 (Exhibit 1-187 was received in evidence.)

01:24PM 15 BY MR. NAMMAR:

01:24PM 16 Q Mr. Smith, the jury can see it. What are we looking at

01:24PM 17 here?

01:24PM 18 A That's the guy Gold Rush.

01:24PM 19 Q And do you see what's in this picture?

01:24PM 20 A Yes.

01:24PM 21 Q What is it?

01:24PM 22 A The chain they got.

01:25PM 23 Q From the robbery?

01:25PM 24 A Yes.

01:25PM 25 MR. NAMMAR: Your Honor, can we show the witness only

01:25PM 1 1-192?

01:25PM 2 THE COURT: Go ahead.

01:25PM 3 BY MR. NAMMAR:

01:25PM 4 Q Do you recognize what is shown here?

01:25PM 5 A Yes.

01:25PM 6 Q What is shown here?

01:25PM 7 A Dae Han's car. That was the car that they used to do the

01:25PM 8 robbery.

01:25PM 9 Q Mr. Stancil told you that?

01:25PM 10 A Yes.

01:25PM 11 Q Do you recognize the vicinity where this is parked at all?

01:25PM 12 A Yes.

01:25PM 13 Q Where is -- what's the vicinity?

01:25PM 14 A It's Waimanalo by Johnnie them's house.

01:25PM 15 MR. NAMMAR: Your Honor, I move to admit 1-192.

01:25PM 16 THE COURT: Any objection?

01:25PM 17 MR. KENNEDY: No objection.

01:25PM 18 THE COURT: 1-192 is admitted. You may publish.

01:25PM 19 (Exhibit 1-192 was received in evidence.)

01:25PM 20 BY MR. NAMMAR:

01:25PM 21 Q You told us this is Dae Han's car?

01:25PM 22 A Yes.

01:25PM 23 Q Is it a Genesis?

01:25PM 24 A Yes.

01:25PM 25 Q And do you know if he -- how -- did he legally own this

01:25PM 1 car, if you know?

01:25PM 2 A I'm not sure.

01:25PM 3 Q And you're saying you recognize the area around where it's  
01:26PM 4 parked?

01:26PM 5 A Yes.

01:26PM 6 Q How do you recognize that area?

01:26PM 7 A Because I'm there all the time.

01:26PM 8 Q How close is it to Mr. Stancil's house?

01:26PM 9 A I think it's around the corner.

01:26PM 10 Q And did Mr. Stancil tell you anything about whether the  
01:26PM 11 police found it shortly after the robbery?

01:26PM 12 A Yes.

01:26PM 13 Q What did he tell you?

01:26PM 14 A That the police pulled up and took Dae Han's car after the  
01:26PM 15 robbery was done.

01:26PM 16 Q Right by his house?

01:26PM 17 A Yes.

01:26PM 18 Q Did --

01:26PM 19 MR. NAMMAR: We can take that down.

01:26PM 20 BY MR. NAMMAR:

01:26PM 21 Q Did Mr. Stancil also talk to you about somebody by the  
01:26PM 22 name of Mike Char in a robbery?

01:26PM 23 A Yes.

01:26PM 24 THE COURT REPORTER: I'm sorry. That was Mike?

01:26PM 25 MR. NAMMAR: Char.

01:26PM 1 BY MR. NAMMAR:

01:26PM 2 Q What did he tell you about Mike Char?

01:26PM 3 MR. KENNEDY: Objection, hearsay, Your Honor. Past  
01:26PM 4 narrative.

01:26PM 5 THE COURT: Overruled. Go ahead.

01:26PM 6 THE WITNESS: That Mike Char was riding around and  
01:26PM 7 telling everybody he had a hundred bands on him, a hundred  
01:26PM 8 thousand, and that -- (indiscernible) -- I was in jail.

01:27PM 9 BY MR. NAMMAR:

01:27PM 10 Q He told you they did him?

01:27PM 11 A Yes.

01:27PM 12 Q They robbed him?

01:27PM 13 A Yes.

01:27PM 14 Q Did he tell you how they did him?

01:27PM 15 A He said he got Mike Char to come to the bay and cruise,  
01:27PM 16 and the rest of the boys pulled up and robbed him.

01:27PM 17 Q What other boys?

01:27PM 18 A Keoni, Keali'i and Lance.

01:27PM 19 Q So they set him up?

01:27PM 20 A Yes.

01:27PM 21 Q Did you also talk to Lance about this afterwards?

01:27PM 22 A Yes.

01:27PM 23 Q Did he essentially tell you the same thing?

01:27PM 24 A Yes.

01:27PM 25 Q Where did this happen?

01:27PM 1 A At the bay.

01:27PM 2 Q Did Keoni tell you the same thing?

01:27PM 3 A Yes.

01:27PM 4 MR. NAMMAR: Can we publish, Your Honor, 1-154?

01:27PM 5 THE COURT: You may.

01:27PM 6 MR. NAMMAR: Thank you.

01:27PM 7 BY MR. NAMMAR:

01:27PM 8 Q Do you recognize this person?

01:27PM 9 A Yes.

01:27PM 10 Q Who is this?

01:27PM 11 A Mike Char.

01:27PM 12 Q Did any of them tell you whether the robbery was

01:27PM 13 successful that they got a lot of money?

01:27PM 14 A They said they got the money, but it wasn't what they were

01:28PM 15 hoping to get.

01:28PM 16 Q Did they -- did they explain?

01:28PM 17 A It was 5,000. It was like a few hundreds and it was all

01:28PM 18 ones wrapped in the middle.

01:28PM 19 MR. NAMMAR: Okay. We can take that down.

01:28PM 20 BY MR. NAMMAR:

01:28PM 21 Q Would you hang out at Kama'aina Termite and Pest Control

01:28PM 22 some?

01:28PM 23 A Yes.

01:28PM 24 Q And on multiple occasions, did you see who you believe was

01:28PM 25 a police officer there meeting with Mike Miske?



01:28PM 1 A I didn't know it was a police officer. Johnnie told me it  
01:28PM 2 was a police officer.

01:28PM 3 Q Okay. So what did you see?

01:28PM 4 A We just were chilling inside the shop or outside the shop  
01:28PM 5 and he would tell me that that guy was a cop.

01:28PM 6 Q And where would the person that Johnnie told you was a cop  
01:28PM 7 go?

01:28PM 8 A To Mike's office.

01:28PM 9 Q And would they shut the door?

01:28PM 10 A I'm not sure, sometimes.

01:28PM 11 Q Did you see that on multiple times?

01:29PM 12 A The guy he said was a cop, I seen him there once or twice.

01:29PM 13 Q And did you see them talking to each other or laughing or  
01:29PM 14 anything like that with each other?

01:29PM 15 A When he'd be coming in, I wouldn't see him after he got in  
01:29PM 16 the office.

01:29PM 17 Q Do you know the officer's name?

01:29PM 18 A No.

01:29PM 19 Q And Stancil told you he was a police officer?

01:29PM 20 A Yes.

01:29PM 21 MR. NAMMAR: If we can show the witness only 1-952  
01:29PM 22 from the original list?

01:29PM 23 THE COURT: Okay. We're at 1:29. I see what 952 is.  
01:29PM 24 I suspect it's going to take you more than a minute.

01:29PM 25 MR. NAMMAR: Maybe I can just admit and then we can

01:29PM 1 come back?

01:29PM 2 THE COURT: Sure, go ahead.

01:29PM 3 MR. NAMMAR: If that's all right?

01:29PM 4 THE COURT: Yes.

01:30PM 5 BY MR. NAMMAR:

01:30PM 6 Q So did you review these prior to coming to court?

01:30PM 7 A Yes.

01:30PM 8 MR. NAMMAR: And if we can scroll through the first

01:30PM 9 couple. Okay. We can stop.

01:30PM 10 BY MR. NAMMAR:

01:30PM 11 Q Are these messages between you and Mr. Miske?

01:30PM 12 A Yes.

01:30PM 13 Q And are they on WhatsApp as well?

01:30PM 14 A Yes.

01:30PM 15 Q And are some of them about assaulting Lindsey Kinney?

01:30PM 16 A Yes.

01:30PM 17 Q Are some of them about Lindsey Kinney's social media  
01:30PM 18 posts?

01:30PM 19 A Yes.

01:30PM 20 Q And are some of them about Jayword and Cash staying in a  
01:30PM 21 hotel after Aloha Tattoo?

01:30PM 22 A Yes.

01:30PM 23 Q Are some of them about Dallas Limahai?

01:30PM 24 A Yes.

01:30PM 25 Q And are some of them about law enforcement activity?

01:30PM 1 A Yes.

01:30PM 2 MR. NAMMAR: Your Honor, I move to admit 1-952.

01:30PM 3 THE COURT: Any objection to that?

01:30PM 4 MR. KENNEDY: Counsel, how many pages are there?

01:30PM 5 MR. NAMMAR: It's a 95-page exhibit.

01:31PM 6 MR. KENNEDY: Your Honor, could I just have the time  
01:31PM 7 to review the 95 before I answer.

01:31PM 8 THE COURT: Yes, go ahead.

01:31PM 9 MR. KENNEDY: Your Honor, I also have no objection  
01:31PM 10 while I'm doing this if the Court wanted the jury to get out on  
01:31PM 11 a Friday.

01:31PM 12 THE COURT: No, that's okay. We'll wait.

01:31PM 13 MR. KENNEDY: Okay. I'll do it as fast as I can.

01:31PM 14 THE COURT: Sure, thank you.

01:32PM 15 MR. KENNEDY: No objection, Your Honor.

01:32PM 16 THE COURT: Without objection 1-952 is admitted. We  
01:32PM 17 will stop there for the trial week.

01:32PM 18 (Exhibit 1-952 was received in evidence.)

01:32PM 19 As we go to break, I will remind our jurors as we head  
01:32PM 20 into the weekend to please refrain from discussing the  
01:32PM 21 substance of this case with anyone, including each other; do  
01:32PM 22 not conduct any independent investigation; and finally do not  
01:32PM 23 access any media or other accounts of this case that maybe out  
01:33PM 24 there.

01:33PM 25 Have a great weekend. We will see you at Monday

01:33PM 1 morning at 8:30.

01:33PM 2 (Proceedings were concluded at 1:33 p.m.)

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1 COURT REPORTER'S CERTIFICATE

2 I, Gloria T. Bediamol, Official Court Reporter, United  
3 States District Court, District of Hawaii, do hereby certify  
4 that pursuant to 28 U.S.C. §753 the foregoing is a complete,  
5 true, and correct transcript from the stenographically reported  
6 proceedings held in the above-entitled matter and that the  
7 transcript page format is in conformance with the regulations  
8 of the Judicial Conference of the United States.

9

10 DATED at Honolulu, Hawaii, May 28, 2024.

11

12

13 /s/ Gloria T. Bediamol

14 GLORIA T. BEDIAMOL.

15 RMR, CRR, FCRR

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